981.

SUPREME COURT OF THE UNITED STATES.

No. 136.

FERDINAND CLARK, APPELLANT,

VS.

BENJAMIN C. CLARK AND WILLIAM H. Y. HACKETT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF WASHINGTON.

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DISTRICT OF COLUMBIA,—To wit:

Style of the Court.

At a Circuit Court of the District of Columbia, began and held in and for the County of Washington, at the City of Washington, on the fourth Monday of March, being the 28th day of the same month, in the year of our Lord, one thousand eight hundred and fifty-three, and of the Independence of the United States the seventy-seventh.

Present.

The Hon. { William Cranch, Chief Judge. / James S. Morsell, James Dunlop, } Associate Judges.

RICHARD WALLACH, Esqr., *Marshal.*

JOHN A SMITH, *Clerk.*

In the record of proceedings of said Court, among others are the following—to wit:

BENJAMIN C. CLARK & WILLIAM H. Y. HACKETT,

vs.

FERDINAND CLARK & HON. THOS. CORWIN.

Be it remembered, that heretofore, to wit, on the fifteenth day of May, in the year 1851, a certain Benjamin C. Clark filed in Court here, against the said Ferdinand Clark, the following Bill of Complaint and Exhibits, to wit:

Bill of B. C. Clark.

To the Honorable the Judges of the Circuit Court of the District of Columbia, in Chancery sitting,

Humbly complaining, showeth unto your orator, Benjamin C. Clark, of Boston, in the State of Massachusetts,

That your orator is a judgment creditor of one Ferdinand Clark, whom he prays your honors to make defendant to this, his Bill of Complaint, that he exhibits herewith, marked A (copied at p. 9), a duly authenticated exemplification of the judgment against said Ferdinand, and in favor of your orator. Thereby it duly appears, as the truth is, that in the Superior Court of the State of New York, on the twenty-fourth day of June, in the year 1842, your orator, by consideration and judgment of the said Court, recovered against the said Ferdinand, as well the sum of twenty-five thousand three hundred and fifty dollars and twenty-eight cents, as the sum of $103 for his costs, &c., amounting on the whole to $25,453 28, which said judgment remains of full force, wholly unsatisfied and unreversed.

Your orator further shows that the said Ferdinand Clark was at that time wholly insolvent, and then and thenceforth had no property which can be reached by execution at law; that shortly after the rendition of the said judgment, the said Ferdinand fraudulently absconded from the City of New York, where he then resided, to escape the pursuit of his creditors, and has fraudulently kept himself beyond the reach of the process of the said State, thenceforth till the present time.

That on or about the 15th of April, 1851, an award was made by the Board of Commissioners or claims against Mexico, in favor of the said Ferdinand Clark, for the sum of $86,786 29, which award is in fact, as your orator has reason to believe and charges, the only assets of the said Ferdinand Clark to which his creditors can have any recourse for the payment of their claims against him. That after the said Ferdinand absconded from the City of New York, as aforesaid, as it now appears, he proceeded to the State of New Hampshire, and there filed his petition, to be declared bankrupt, in the U. S. District Court for the District of New Hampshire, and was duly declared bankrupt, and a decree passed by the said Court, whereby all the rights, title, interests, credits, estates, choses in action, and property of every name and nature whatsoever, of the said Ferdinand, were passed to and vested in the assignee in bankruptcy, duly appointed and qualified in the premises, to which said assignee the same identical claim against Mexico, upon which the said award has been recently made, as aforesaid, was transferred and passed by virtue of the decree aforesaid, but the said claim was so mentioned or described, if at all, by said Ferdinand in his schedule, as to prevent the same from being made available to the creditors, or its true value disclosed.

Your orator shows that he has only within a day or two ascertained the fact of the bankruptcy aforesaid, and that the assignee so, as aforesaid, invested with all the rights of the said Ferdinand in the premises, for the benefit of creditors, is one John Palmer, heretofore residing in Portsmouth, New Hampshire. That he has reason to be-

lieve that the said John Palmer is dead, but whether living or dead, so it is, that your orator cannot now have the benefit of the personal intervention of the said assignee in time to protect his rights in the premises.

He charges that the said Ferdinand Clark is now indebted to an amount exceeding the averment of the said award; that he is wholly insolvent, and that your orator has reason to believe and fear, and does verily believe and fear, and therefore charges that the said Ferdinand, unless enjoined by this honorable Court, will receive the amount of the said award, in fraud of his creditors in the said bankruptcy, and in fraud of the Bankrupt Law, and will withdraw the same beyond the jurisdiction of the Court, and will so manage and dispose the same as to defeat and defraud his creditors. That no assets were collected or received by the assignee in bankruptcy for distribution among the creditors of the said Ferdinand Clark; but the debts remain wholly unsatisfied.

Your orator further states and shows that he has duly filed his bond according to the Act of Congress in such case made and provided, and that the same is approved by the U. S. District Attorney, for the District of Massachusetts, where your orator resides, a certificate of which approval is filed at the treasury, and a duplicate herewith exhibited, marked B. (Copied at p. 19.)

Your orator, on behalf of himself and of all other the creditors of the said Ferdinand Clark, who may come in and make themselves parties to this suit, and contribute to the expenses thereof, being without adequate remedy at law, prays your honors to grant the U. S. Writ of Injunction, enjoining and commanding the said Ferdinand, his attorney, agents, servants, and all others claiming to act under him, or by authority derived from him, not to demand or receive the amount of said award or any part thereof, until the further order of the Court, and commanding and enjoining the Hon. the Secretary of the Treasury, Thomas Corwin, be enjoined from paying it or any part thereof, and that the said John Palmer, assignee, or such other assignee as may be duly appointed by the said District Court, have leave to come in and make himself party complainant to this bill; and that a subpœna be issued and served on the said Ferdinand Clark, and that he be commanded to appear and answer the several matters and allegations of this bill as fully as if they were again here repeated, &c., and that the amount of the said award be decreed to be applied in satisfaction, *pro rata*, of the debts so as aforesaid due by said Ferdinand at the time of his bankruptcy, and that such other relief, &c., and y'r Orator, &c.

J. M. CARLISLE,
For Compl't.

In open Court, on this 15th day of May, 1851, appears Christopher Gore Ripley, the attorney in fact of the complainant in the

foregoing bill, and makes oath that the matters and things charged in the said bill, as of the complainant's own knowledge, are true, and so far as stated on information and belief, this affiant verily believes them true as stated.

Test,

JNO. A. SMITH, *Cl'k.*

Amended Bill.

And now, on this 15th day of May, 1851, your orator, by way of amendment to his bill of complaint aforesaid, by leave of your honors, states and shows that he has filed his bond with the District Attorney of the District of Columbia aforesaid, with two good securities, approved by said attorney, in the penalty of thirty-five thousand dollars ($35,000), conditioned as required by the statute in such case made and provided, and has given notice thereof and of the matters contained in said bill to the Secretary of the Treasury, according to the injunction of the said act; and is entitled to have the fund aforesaid detained in the treasury of the U. S., subject to the decision of the Courts of the U. S. thereon.

J. M. CARLISLE, *Sol'r*
For Compl.

Endorsed on the said bill is the following, to wit: "Bond filed and approved, 15th May, 1851.

"P. R. FENDALL.
"*U. S. Att'y, D. C.*"

Thereupon the complainant, by his solicitor, made his motion to said Court that an injunction issue, as prayed by complainant in his said Bill of Complaint.

But the said Court, not yet being advised thereon, a further day was given to the parties to hear their order in the premises.

Injunction Ordered.

Thereupon said Court afterwards, to wit, on the 2d day of June, in the year 1851, passed the following order, to wit:

"Upon the bill and the petition and exhibits filed in this cause, it is now, on this second day of June, 1851, by the Court ordered, that the injunction prayed be granted and issue, enjoining and restraining the Hon. Thomas Corwin, Secretary of the Treasury, from paying, and the said Ferdinand Clark, and all and every person claiming through or under him, from receiving the amount of the award made in favor of the said Ferdinand Clark by the commission on Mexican claims within mentioned, or any part thereof, till the further order of this Court.

"By order of the Court,

"JNO. A. SMITH, *Cl'k.*"

Injunction Issued.

Thereupon the injunction issued as ordered, to the honorable the Sect'y of the Treasury, and copy left with him.

Exhibit A.

Transcript of Judg't, B. C. Clark *vs.* F. Clark.

The People of the State of New York, by the grace of God free and independent.

To all, to whom these presents shall come—greeting.

Know ye, that we have inspected the files of the Superior Court, of the City of New York, do find there remaining on file, a certain judgment record in the words and figures following to wit:

NEW YORK SUPERIOR COURT.

Pleas before the Justices of the Superior Court, of the City of New York, held at the City Hall in the City of New York, of December Term, in the year one thousand eight hundred and forty-one.

Witness, SAMUEL JONES, *Chief Justice.*
C. A. CLINTON, *Clk.*

Exhibit A.

CITY AND COUNTY OF NEW YORK, *ss.*

Benjamin C. Clark, plaintiff in this suit, by Charles E. Butler, his attorney, complains of Ferdinand Clark, defendant herein, in custody, &c., of a plea of trespass on the case upon promises; for that whereas, the said defendant, on the twenty-eighth day of October, in the year one thousand eight hundred and forty-one, at Boston to wit, at New York to wit, at the City and County of New York, was indebted to the said plaintiff, in the sum of forty thousand dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiff to the said defendant, and at the special instance and request of the said defendant. And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last above mentioned, when the said defendant should be thereto afterwards requested.

And whereas also the said defendant afterwards, to wit, on the

same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiff in the further sum of forty thousand dollars, like lawful money as aforesaid, for so much money before that time, paid, laid out, and expended, by the said plaintiff, to and for the use of the said defendant, and at the like special instance and request of the said defendant, and being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested. And whereas also the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiff in the further sum of forty thousand dollars, like lawful money as aforesaid, for money before that time had and received by the said defendant to and for the use of the said plaintiff. And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff, the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted together with the said plaintiff of and concerning divers other sums of money before that time due and owing from the said defendant to the said plaintiff, and then and there being in arrear and unpaid, and upon such accounting the said defendant then and there was forced to be in arrear and indebted to the said plaintiff, in the further sum of forty thousand dollars, like lawful money as aforesaid. And being so found in arrear and indebted to the said plaintiff, the said defendant in consideration thereof afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff, the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested. Nevertheless, the said defendant (although often requested, &c.), has not yet paid the said several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiff, but to pay the same or any part thereof to the said plaintiff, the said defendant hath hitherto wholly refused, and still does refuse, to the damage of the said plaintiff, of forty thousand dollars, and thereof the said plaintiff brings suit, &c.

And the said Ferdinand Clark, defendant in this suit, by J. Hopkins Stewart, his attorney, comes and defends the wrong and injury, where, &c., and says that he did not undertake and promise in manner

and form, as the said plaintiff in this suit hath above thereof declared against the said defendant, and of this he puts himself upon the country, and the said plaintiff likewise, &c.

And the said defendant, by leave of the court here for this purpose had and obtained, according to the form of the statute in such case made and provided, for further plea in this behalf, say that the said plaintiff his action aforesaid against the said defendant, ought not to have or maintain, because the said defendant say that after the supposed promises and undertakings of the said defendant, and before the commencement of the said action of the said plaintiff against the said defendant in this behalf, to wit, on the twenty-eighth day of October, in the year of our Lord one thousand eight hundred and forty-one, at Boston, to wit, at New York, to wit at the city and in the county of New York, the said defendant paid to the said plaintiff the said several sums of money, in the declaration of the said plaintiff mentioned, and this the said defendant is ready to verify. Wherefore, the said defendant prays judgment whether the said plaintiff, his action aforesaid thereof against the said defendant ought to have or maintain, &c.

To which pleas was subjoined a notice in the words and figures following, to wit:

SIR:—Please to take notice that the said defendant, at the trial of the above cause, will insist upon and give in evidence, under the general issue above pleaded, that the said plaintiff, at the time of the commencement of the action aforesaid against the said defendant, was and still is indebted unto him in the sum of fifty thousand dollars, lawful money of the United States of America, for divers goods, wares and merchandise, before that time sold and delivered by the said defendant to the said plaintiff, and at the special instance and request of the said plaintiff. And in the further sum of fifty thousand dollars of like lawful money, for the work and labor, care and diligence of the said defendant, by the said defendant and his servants before that time done, performed and bestowed, in and about the business of the said plaintiff, and for the said plaintiff and at his like request. And in the further sum of fifty thousand dollars of like lawful money, for money before that time lent and advanced by the said defendant to the said plaintiff, and at the like request of the said plaintiff, and for other money by the said defendant before that time paid, laid out and expended for the said plaintiff, and at the like request of the said plaintiff. And for other money by the said plaintiff before that time had and received, to and for the use of the said defendant. And, also, that the said plaintiff, before the commencement of this action, accounted together with the said defendant of and concerning the said demand of the said plaintiff against the said defendant, and also of and concerning divers other sums of

money and accounts, between the said plaintiff and the said defendant, and upon such accounting the said plaintiff was found to be in arrear and indebted to the said defendant in the further sum of fifty thousand dollars of like lawful money, which the said plaintiff undertook and then and there faithfully promised the said defendant, well and truly to pay unto the said defendant, when the said plaintiff should be thereunto afterwards requested, which said several sums of money, or so much thereof as will be sufficient for that purpose, the said defendant will set off against the demand of the said plaintiff, to be proved at the trial, and have the balance certified in his favor. Dated the fifth day of March, 1842.

Yrs., &c.,

J. H. STEWART, *Att'y for Defdt.*

To CHAS. E. BUTLER, *Att'y for Pltff.*

And the said plaintiff in this suit says, that as to anything by the defendant in this suit secondly above in pleading alleged, the said plaintiff ought not to be barred from having or maintaining his said action thereof against the said defendant, because he says that the defendant did not pay the said sum of money, in the said declaration mentioned, to the said plaintiff or any part thereof, in manner and form as the said defendant in his said second plea has alleged, and this the said plaintiff prays may be inquired of by the country, and the defendant likewise, &c.

Therefore the issues above joined are ordered by the said Superior Court to be tried at the court appointed to be held at the City Hall, in the city of New York, on the first Monday of April next.

At which day came the parties aforesaid by their attorneys aforesaid, and because the said issues so as above joined between the parties were not tried at the Court held at the time and place aforesaid, therefore let the process aforesaid be continued between the parties aforesaid, until the Court appointed to be held at the City Hall in the City of New York, on the first Monday of June next.

And now at this day, that is to say, the twenty-fourth day of June term, in the year one thousand eight hundred and forty-two, before the justices aforesaid, at the place aforesaid, come the said plaintiff by his attorney aforesaid, and the said defendant being solemnly required, comes not, but makes default; therefore, let the jurors of the jury be taken against him by his default, and the jurors of the jury summoned to try the said issue, being called also, came, who, to speak the truth of the matters above contained, being chosen, tried, and sworn, say upon their oath that the said defendant did undertake and promise, in manner and form as the said plaintiff hath above complained against him. And they assess the damage of the said plaintiff by reason of the premises over and above his costs and charges by him about his suit in this behalf,

expended to twenty-five thousand three hundred and fifty dollars and twenty-eight cents, and for those costs and charges to six cents.

Therefore, it is considered, that the said plaintiff do recover against the said defendant his said damages, costs, and charges by the jurors aforesaid in form aforesaid assessed, and also one hundred and three dollars for his said costs and charges by the said Court, now here adjudged of increase to the said plaintiff, and with his assent, which said damages, costs, and charges in the whole amount to twenty-five thousand four hundred and fifty-three dollars and twenty-eight cents.

[Judgment signed this 29th day of June, 1842.—S. JONES.]

And the said defendant in mercy, &c.

Filed June 29th, 1842, at 12.15 M.

All of which we have caused by these presents to be exemplified, and the seal of the Superior Court of the City of New York to be hereunto affixed.

[SEAL.]

Witness, Thomas J. Oakley, Esq., Chief Justice of our said Court at the City Hall of the City of New York this ninth day of May, A. D. 1851.

D. R. FLOYD JONES, *Clerk.*

By the Honorable Thomas J. Oakley, Chief Justice of the Superior Court of the City of New York, it is hereby certified that D. R. Floyd Jones, whose name is subscribed to the above exemplification, is the clerk of said Court, and that the attestation thereof is in due form.

Given under my hand at the City of New York this 9th day of May, A. D. 1851.

THOS. J. OAKLEY.

Exhibit B.

Exhibit B.

MASSACHUSETTS DISTRICT, OFFICE OF
U. STATES ATTORNEY, May 9, 1851.

I, the undersigned, do hereby certify that a bond, dated May 7th, A. D. 1851, executed by B. C. Clark as principal, and Ch's G. Nazzo as security, under the provisions of the Act of Congress of 3d March, 1849, for the settlement of Mexican claims, has this day been filed with me, and approved by me.

GEORGE LUNT,
U. States Att'y, Mass'ts District.

And now at the same time appears David Barclay, by J. M.

Carlisle, Esq., his solicitor, and files in Court here the following petition and exhibit, to wit:

BENJAMIN C. CLARK
vs.
FERDINAND CLARK. } In Chancery, Cir. C't, D. C.

To the Honorable the Judges of the Circuit Court of the District of Columbia. In Chancery.

R. Barclay's Petition.

The petition of David Barclay, surviving partner of Robert F. Reynolds and Robert Barclay, humbly showeth,

That as such surviving partner he is a creditor of Ferdinand Clark, mentioned in the caption hereof, against which said Ferdinand the above-named Benjamin C. Clark hath lately filed his bill before your honors on behalf of himself and all others, the creditors of the said Ferdinand, who were such creditors at the time of the bankruptcy of the said Ferdinand. Your petitioner prays leave to come in under the said Bill as such creditor agreeing to contribute to the expenses thereof. He avers that his said firm were creditors of the said Ferdinand Clark at the time of his bankruptcy, and that your petitioner, as such surviving partner as aforesaid, is entitled to share in the distribution of the said bankrupt's estate.

He shows that on the eleventh day of October, 1842, his said firm for the debt due to it from the said Ferdinand as aforesaid did, by the consideration and judgment of the Superior Court of the City of New York, in the State of New York, one of the United States of America, recover against the said Ferdinand as well the sum of eleven thousand dollars, two hundred and forty-five dollars and forty-eight cents damages, as the sum of two hundred dollars for their costs and expenses in that behalf, amounting in the whole, at the time aforesaid, to $11,444 48, all which will more fully appear by a duly-authenticated exemplification of the record and proceeding in the said cause herewith exhibited and marked A (copied on p. 23).

Your petitioner avers, that the said judgment remains of full force, and not in anywise cancelled, vacated, reversed, or ratified, but that the whole amount thereof, together with the interest, remains due and unpaid. He further shows, that the said Ferdinand Clark was at the time of the rendition of the said judgment, and hath ever since continued, and notwithstanding the award mentioned in the said Bill, filed by said Benjamin, still is utterly insolvent. And that under the proceedings in bankruptcy, mentioned in the said original Bill of said Benjamin C. Clark, nothing what-

ever has been collected or received out of the assets of the said Ferdinand.

He is informed and charged that the said Ferdinand was duly declared bankrupt in the manner and at the time mentioned in the said Bill; that the assignee therein named is dead, as your petitioner is informed, and a new assignee is about to be appointed, who will be entitled to receive and distribute the proceeds of the said award under the bankrupt law, among the creditors in bankruptcy; and that the total amount of debts due to said creditors in bankruptcy, from the estate of said Ferdinand, is at least fully equal to the amount of the said award.

Your petitioners pray leave to adopt all and singular the matters and allegations in the said Bill, filed by the said B. C. Clark, save such as relate to the amount of the debt claimed to the said complainant, as to which he submits that the same, with the claims of all other the said creditors, be duly examined in the proper form.

He prays that the amount of the said award be enjoined and determined in the treasury of the United States, until the same can be received by the assignee in bankruptcy, and that the same be decreed to be paid to said assignee for distribution according to law, among the creditors entitled to share therein, and for such other and further relief, &c.

J. M. CARLISLE, *Sol. for Pet'r.*

Exhibit A.

Exhibit A. in Barclay's petition.

Judgment Record.

The People of the State of New York, by the Grace of God Free and Independent.

To all to whom these presents shall come—Greeting:

Know ye, that we having inspected the files of the Superior Court, of the city of New York, do find there remaining on file a certain Judgment Record, in the words and figures following, to wit:

SUPERIOR COURT.

Pleas in the Superior Court of the City of New York, held at the City Hall in the City of New York, before the Justices of the said Court, on the 26th Day of November, in November Term, one thousand eight hundred and forty-one.

Witness SAMUEL JONES, Esq., *Chief Justice.*
CHARLES A. CLINTON, *Clk.*

CITY AND COUNTY OF NEW YORK, *ss.*

David Barclay, Robert F. Reynolds, and Robert Barclay, copartners, plaintiffs in the suit by Griffin and Havens, their attorneys, complain of Ferdinard Clark, defendant in said suit, being in custody, &c., of a plea of trespass on the case upon promises. For that, whereas the said defendant, on the 20th day of November, in the year one thousand eight hundred and forty-one, at New York, to wit, at the city and in the county of New York aforesaid, was indebted to the said plaintiffs in the sum of twenty thousand dollars, lawful money of the United States of America, for the work and labor, care and diligence of the said plaintiffs, by the said plaintiffs and their servants before that time done, performed, and bestowed in and about the business of the said defendant, and for the said defendant, and at the special instance and request of the said defendant, and also for divers materials and other necessary things by the said plaintiffs, provided and applied in and about that work, and at the special instance and request of the said defendant. And being so indebted to the said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promises the said plaintiffs, well and truly to pay unto the said plaintiffs, the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, in consideration that the said plaintiff had before that time, at the like special instance and request of the said defendant, done, performed, and bestowed divers other work and labor, care and diligence in and about the business of the said defendant, and for the said defendant, and had before that time found, provided, used, and applied divers other materials and other necessary things in and about that business, the said defendant then and there undertook, and faithfully promised the said plaintiffs that the said defendant would well and truly pay to the said plaintiffs, so much money as the said plaintiffs reasonably deserved to have of the said defendant for the same, when the said defendant should be thereunto afterwards requested. And the said plaintiffs aver, that the said plaintiffs therefor reasonably desired to have of the said defendant for the same, the further sum of twenty thousand dollars of like lawful money as aforesaid, to wit, at the place aforesaid, whereof the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, had notice. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, was indebted to the said plaintiffs in the sum of twenty thousand dollars, of like lawful money as aforesaid, for divers goods, wares, and merchandise by the said

plaintiffs before that time sold and delivered to the said defendant, and at the like request of the said defendant. And in the further sum of twenty thousand dollars, of like lawful money as aforesaid, for money before that time lent and advanced by the said plaintiffs to the said defendant, and at the like request of the said defendant, and for other money by the said plaintiffs before that time laid out and expended for the said defendant and at the like request of the said defendant. And for other money by the said defendant before that time had and received to and for the use of the said plaintiffs, and being so indebted, the said defendant in consideration thereof afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs, the said several sums of money in this count mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, accounted together with the said plaintiffs of and concerning divers other sums of money before that time due and owing from the said defendant to the said plaintiffs, and then and there being in arrear, and unpaid, and upon such accounting, the said defendant then and there was found to be in arrear, and indebted to the said plaintiffs in the further sum of twenty thousand dollars of like lawful money, as aforesaid; and being so found in arrear and indebted to the said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the plaintiffs the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested.

Nevertheless, the said defendant (although often requested, &c.,) has not yet paid the said several sums of money above mentioned, or any, or either of them, or any part thereof, to the said plaintiffs; but to pay the same, or any part thereof, to the said plaintiffs, the said defendant has hitherto altogether refused, and still does refuse, to the damage of the said plaintiffs of twenty thousand dollars, and therefore the said plaintiffs bring suit, &c.

And afterwards, that is to say, on the first Monday of December term, in the year one thousand eight hundred and forty-one, until which day the said defendant had leave to imparle to the aforesaid declaration, and there to answer thereunto unto the said Superior Court of the City of New York, held at the City Hall in the City of New York, before the aforesaid Justices thereof, comes as well the said defendant, by J. H. Stewart, his attorney, as the said plaintiffs by their attorneys aforesaid.

And the said defendant in this suit defends the wrong and injury where, &c., and says that he did not undertake and promise in

manner and form as the said plaintiffs in this suit have above thereof declared against the said defendant, and of this he puts himself upon the country, and the said plaintiffs likewise, &c.

And the said defendant, by leave of the Court here for this purpose had and obtained, according to the form of the statute in such case made and provided, for further plea in this behalf, says, that the said plaintiffs, their action aforesaid against the said defendant ought not to have or maintain, because the said defendant says, that after the supposed promises and undertakings of the said defendant, and before the commencement of the said action of the said plaintiff against the said defendant in this behalf, to wit, on the thirtieth day of October, in the year of our Lord one thousand eight hundred and forty-one, the said defendant paid to the said plaintiff, the said sum of money in the declaration of the said plaintiff mentioned, and this the said defendant is ready to verify; wherefore the said defendant prays judgment, whether the said plaintiffs, their action aforesaid thereof against the said defendant, ought to have or maintain, &c.

To which plea was subjoined a notice, in the words and figures following, that is to say: Please take notice, that the said defendant, on the trial of the above cause, will insist upon and give in evidence, under the general issue above pleaded, that the said plaintiffs, at the time of the commencement of the action aforesaid against the said defendant, were, and still are, indebted unto him in the sum of twenty thousand dollars lawful money of the United States of America, for divers goods, wares, and merchandises, before that time sold and delivered by the said defendant to the said plaintiffs, and at the special instance and request of the said plaintiffs; and in the further sum of twenty thousand dollars of like lawful money, in the work and labor, care and diligence of the said defendant, by the said defendant and his servants before that time, done, performed, and bestowed, in and about the business of the said plaintiffs, and for the said plaintiffs, and at their like request; and in the further sum of twenty thousand dollars of like lawful money, for money before that time lent and advanced by the said defendant to the said plaintiff, and at the like request of the said plaintiffs, and for other money by the said defendant before that time paid, laid out, and expended for the said plaintiffs, and at the like request of the said plaintiffs; and for other money by the said plaintiffs before that time, had and received to and for the use of the said defendant; and also, that the said plaintiffs, before the commencement of this action, accounted together with the said defendant of and concerning the said demand of the said plaintiffs against the said defendant, and also of and concerning divers other sums of money and accounts between the said plaintiffs and the said defendant, and, upon such accounting, the said plaintiffs was found to be in arrear, and indebted to the said defendant in the further sum of twenty thousand dollars of like lawful

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money, which the said plaintiffs undertook, and then and there faithfully promised the said defendant well and truly to pay unto the said defendant, when the said plaintiffs should be thereunto afterwards requested, which said several sums of money, or so much thereof as will be sufficient for that purpose, the said defendant will set off against the demands of the said plaintiffs, to be proved at the trial, and have the balance certified in their favor.

Dated the 15th day of December, 1841.

Y'rs, &c.,

J. H. STEWART,

Attorney for Defendant.

To GRIFFIN & BABCOCK, Esq's

Attorney for Plaintiffs.

And the said plaintiffs in this suit say, that as to anything by the defendant in this suit secondly above in pleading alleged, the said plaintiffs ought not to be barred from having or maintaining their said action thereof against the said defendant, because they say that the defendant did not pay the said sums of money in the said declaration mentioned, or any or either of them, or any part thereof, in manner and form as the said defendant in his said second plea has alleged, and this the said plaintiffs pray may be inquired of by the country, and the defendant likewise, &c.

Therefore the issues between the parties aforesaid, in form aforesaid, joined and ordered by the said Superior Court, before the aforesaid justices thereof, now here to be tried at the term of the said Court, appointed to be held at the City Hall, in the city of New York, in and for the City and County of New York, on the first Monday of January next.

At which day and place, to wit, at the City Hall, in the city of New York, on the first Monday of January, in the year one thousand eight hundred and forty-two, into the said Superior Court, before the aforesaid justices thereof now here, come the parties aforesaid, by their respective attorneys aforesaid, but because the said issues between the parties aforesaid, in form aforesaid joined, were not tried at the term of the said Court, so as last appointed to be held, therefore the process between the parties aforesaid, of the plea aforesaid, is continued until the term of the said Court appointed to be held at the City Hall, in the city of New York, on the first Monday of October next.

At which said last-mentioned day, into this same Superior Court of the city of New York, before the aforesaid justices thereof, at the City Hall, in the city of New York, come as well the said plaintiffs, by their attorneys aforesaid, as the said defendant, by his attorney aforesaid, and the jurors of the jury, summoned to try the said issues, being called, also come, who, to speak the truth of the matters above

contained, being elected, tried, and sworn upon their oaths, say, as to the issue first above joined between the parties aforesaid, that the said defendant did undertake and promise, in manner and form as the said plaintiffs have above thereof declared against him. And as to the issue secondly above joined between the said parties, the jurors aforesaid, upon their oath aforesaid, say that the said defendant did not pay the said plaintiffs the said several sums of money in the said declaration mentioned, or any or either of them, or any part thereof, in manner and form as the said defendant has above in that behalf alleged. And the jurors aforesaid assess the damages of the said plaintiffs, on occasion of the non-performance of the several promises and undertakings in the foregoing declaration mentioned, besides their costs and charges by them about their suit in this behalf expended, to eleven thousand two hundred and forty-four dollars, and forty-eight cents, and for those costs and charges to six cents.

Therefore, it is considered by the said Court now here, that the said plaintiffs do recover against the said defendants their damages, costs, and charges aforesaid, in form aforesaid assessed, and also two hundred dollars, for their said costs and charges, by the said Court now here adjudged of increase to the said plaintiffs, and with their assent, which said damages, costs, and charges in the whole, amount to eleven thousand, four hundred and forty-four dollars, and fifty-four cents, and the said defendant in mercy, &c.

Judgment signed, this 11th day of October, A.D. 1842. S. JONES. [SEAL.]

All which we have caused by these presents to be exemplified, and the seal of the Superior Court of the City of New York, to be hereunto affixed.

Witness, Thomas J. Oakley, Esquire, Chief Justice of our said Court, at the City Hall of the City of New York, this 19th day of May, A.D. 1851.

D. R. FLOYD JONES, *Clerk.*

By the Honorable Thomas J. Oakley, Chief Justice of the Superior Court of the City of New York, it is hereby certified that D. R. Floyd Jones, whose name is subscribed to the above exemplification, is the Clerk of said Court, and the attestation thereof is in due form.

Given under my hand, at the at the City of New York, this 19th day of May, A.D. 1851.

THOS. J. OAKLEY.

A now at the same time Charles Stanton, by Charles Abert, his solicitor, filed in Court here the following petition, to wit:

BENJAMIN C. CLARK
vs.
FERDINAND CLARK. } In Chancery, Circuit Court, D. C.

To the Honorable the Judges of the Circuit Court of the District of Columbia, in Chancery, sitting.

Petition of C. Stanton.

The petition of Charles Stanton, of the City of New York, humbly showeth,

That he is a creditor of Ferdinand Clark, mentioned in the caption hereof, against which said Ferdinand the above named Benjamin C. Clark, has lately filed his bill before your Honors, on behalf of himself and all other the creditors of the said Ferdinand, who were such creditors at the time of the bankruptcy of the said Ferdinand.

Your petitioner prays leave to come in under the said bill as such creditor, agreeing to contribute towards defraying the expenses thereof. He avers that he was a creditor of the said Ferdinand Clark at the time of his bankruptcy, and that your petitioner, as such, is entitled to share in the distribution of said bankrupt's estate.

He shows that on the fourth day of November, eighteen hundred and forty-two, he, for the debt due him from the said Ferdinand, as aforesaid, did by consideration and judgment of the Court of Common Pleas, of the State of New York, in the City of New York, recover against the said Ferdinand, as well, the sum of three thousand, four hundred and eighty-one dollars and twenty-six cents, as the sum of eighty-three dollars and thirty-eight cents, amounting in the whole at the time aforesaid, to three thousand five hundred and sixty-four dollars and sixty-four cents; all which will more fully appear by a duly authenticated exemplification of the record and proceedings in the said cause, herewith exhibited, and marked A. (copied at p. 39).

Your petitioner avers that the said judgment remains in full force, and not in any wise annulled, vacated, reversed, or satisfied, but that the whole amount thereof, together with the interest, remains due and unpaid.

He further shows, that the said Ferdinand Clark was at the time of the rendition of the said judgment, and hath ever since continued, and notwithstanding the award mentioned in the said bill, filed by the said Benjamin, still is utterly insolvent, and that under the proceedings in bankruptcy mentioned in the said original bill, of said Benjamin C. Clark, nothing whatever has been collected or received out of the assets of the said Ferdinand.

He is informed, and charges that the said Ferdinand was duly declared bankrupt, in the manner, and at the time mentioned in the said bill—that the assignee therein named is dead, as your petitioner is informed, and a new assignee is about to be appointed, who will be entitled to recover and distribute the proceeds of the said award, under the bankrupt law, among the creditors in bankruptcy, and that the total amount of debts due to the said creditors in bankruptcy, from the estate of said Ferdinand is at least fully equal to the amount of the said award.

Your petitioner prays leave to adopt all and singular the matters and allegations in the said Bill, filed by the said B. C. Clark, save such as relate to the amount of the debt claimed to the said complainant, as to which he submits that the same with the claims of all other the said creditors be duly examined in the proper form.

He prays that the amount of the said award be enjoined and detained in the Treasury of the United States, until the same can be recovered by the assignee in bankruptcy, and that the same be decreed to be paid to the said assignee, for distribution according to law among the creditors entitled to share therein, and for such other and further relief, &c.

CHARLES ABERT. *Sol'cr for Pet'r.*

Exhibit A.

Exhibit A., in C. Stanton's Petition.

Exemplification of Record.

The People of the State of New York, by the grace of God free and independent.

To all to whom these presents shall come, or may concern—Greeting.

Know ye, that we having inspected the records and files in our clerk's office, do find a certain judgment record there remaining, which is in the words and figures following, to wit,

N. Y. Common Pleas.

Pleas in the Court of Common Pleas, at the City Hall, in the City of New York, in and for the County of New York, before the Judges of the same Court, of September Term, in the year of our Lord one thousand eight hundred and forty-one.

City and County of New York, *ss.*

Charles Stanton, plaintiff in this suit, by Frederick A. Hanford, his attorney, complains of Ferdinand Clark, Isaac Clark, Justus Clark, and John Kietton, defendants in this suit, the said Ferdinand

Clark and Isaac Clark being in custody, &c., and the said Justus Clark and John Kitton being returned by the Sheriff of the City and County of New York, to whom the capias ad respondendum issued in this cause was directed, not found of a plea of trespass on the case upon promises.

For that whereas the said defendants, on the twenty-eighth day of August, in the year one thousand eight hundred and forty-one, at New York, to wit, at the City and County aforesaid, and within the jurisdiction of this court, were indebted to the said plaintiff in the sum of seven thousand dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiff, to the said defendants, and at the special instance and request of the said defendants, and being so indebted, the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said well and truly to pay unto the said plaintiff, the said sum of money last above mentioned, when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, were indebted to the said plaintiff in the further sum of seven thousand dollars, like lawful money as aforesaid, for so much money before that time paid, laid out, and expended, by the said plaintiff, to and for the use of the said defendants, and at the like special instance and request of the said defendants, and being so indebted the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff, the said sum of money last above mentioned, when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, were indebted to the said plaintiff in the further sum of seven thousand dollars, like lawful money as aforesaid, for money before that time had and received by the said defendants, to and for the use of the said plaintiff. And being so indebted, the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place as aforesaid, undertook and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said sum of money last above mentioned, when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendants afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted, together with the said plaintiff, of and concerning divers other sums of money before that time due and owing from the said defendants to the said plaintiff, and then and

there being in arrear and unpaid, and upon such accounting, the said defendant then and there were found to be in arrear and indebted to the said plaintiff in the further sum of seven thousand dollars, like lawful money as foresaid. And being so found in arrear and indebted to the said plaintiff, the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last above mentioned, when the said defendants should be thereunto afterwards requested.

Nevertheless, the said defendant (although often requested, &c.) have not yet paid the said several sums of money, above mentioned, or any or either of them, or any part thereof, to the said plaintiff, but to pay the same, or any part thereof, to the said plaintiff, the said defendants have hitherto wholly refused, and still do refuse, to the damage of the said plaintiff of seven thousand dollars, and thereof the said plaintiff brings suit, &c.

Exch. $1687 1 R.

HAVANNA, May 8th, 1841.

Ninety days after sight of this fourth of exchange (first, second, and third unpaid), pay to the order of Russell E. Glover, Esq., sixteen hundred and eighty seven dolls. 1 in value received, and charge the same to account of your

Ob't Serv't,

To Messrs. CLARK & Co., FERDINAND CLARK.
46 Water Street, New York.

Endorsed RUSSELL E. GLOVER.

Exch. $1634 & 4 P.

HAVANNA, May 15, 1841.

Ninety days after sight of this third of exchange (first, second, and fourth unpaid) pay to the order of Russell E. Glover, Esq., fifteen hundred and thirty-four dollars, and four s value received, and charge the same to account of your

Ob't Serv't,

To Messrs. CLARK & Co., FERDINAND CLARK.
46 Water Street, New York.

Endorsed RUSSELL E. GLOVER.

And hereupon the said plaintiff, according to the form of the statute in such case made and provided, suggests to the Court now here, and gives the said Court to understand and be informed, that copies of certain bills of exchange, upon which this suit is brought, and which are in the words and figures next above written, were duly

served, together with a copy of the foregoing declaration, upon H. H. Stewart, the attorney for Ferdinand Clark and Isaac Clark, pursuant to the statute in such case made and provided.

And the said Ferdinand Clark and Isaac Clark, defendants in this suit, by J. Hopkins Stewart, their attorney, come and defend the wrong and injury when, &c., and say that they did not undertake and promise in manner and form, as the said plaintiff in this suit hath above thereof declared against the said defendants, and of this they put themselves upon the country.

And the said defendants, by leave of the Court here for this purpose had and obtained, according to the form of the statute in such case made and provided, for further plea in this behalf say, that the said plaintiff his action aforesaid against the said defendants ought not to have or maintain, because the said defendants say that after the supposed promises and undertakings of the said defendants, and before the commencement of the said action of the said plaintiff against the said defendant in this behalf, to wit, on the tenth day of September, in the year of our Lord, one thousand eight hundred and forty-one, at the special instance and request of the said defendant, paid to the said plaintiff the said several sums of money, in the declaration of the said plaintiff mentioned, and this the said defendants are ready to verify, wherefore the said defendants pray judgment, whether the said plaintiff, his action aforesaid thereof against the said defendant, ought to have or maintain, &c.

And the said plaintiff, as to the plea of the said defendant, Ferdinand Clark and Isaac Clark, by them first above pleaded, and whereof they have put themselves upon the country, doth the like, &c.

And the said plaintiff in this suit says, that as to anything by Ferdinand Clark and Isaac Clark, two of the defendants in this suit, secondly above, in pleading alleged the said plaintiff ought not to be barred from having or maintaining his said action thereof against the said two defendants, because he says that the two defendants did not pay the said sum of money, in the said declaration mentioned, or any part thereof, in manner and form, as the said defendants in their said second plea have alleged, and this the said plaintiff prays may be inquired of by the country, and the defendants likewise, &c., &c.

Therefore the issue above joined are ordered by the said court to be tried at a Court of Common Pleas appointed to be held at the City Hall, in the city of New York, in and for the said City and County of New York, on the third Monday of October, one thousand eight hundred and forty-two.

Afterwards, that is to say, on the day and at the place within contained, before Michael Ulshæffer, Esquire, one of the judges of the court aforesaid, according to the form of the statute in such case

made and provided, comes the within named plaintiff by his attorney within mentioned, and the within named defendant, Ferdinand Clark, although solemnly required, comes not but makes default; therefore let the jurors of the jury be taken against him by his default, and the jurors of the jury summoned to try the said issue being called also come, who to speak the truth of the matter within contained, being chosen, tried and sworn, say upon their oaths, that the said defendant, Ferdinand Clark, did undertake and promise in manner and form, as the said plaintiff hath within complained against him, and they assess the damages of the said plaintiff by reason of the premises over and above his costs and charges by him about his suit in this behalf expended, to three thousand four hundred and eighty-one dollars and twenty-six cents, and for those costs and charges to six cents.

And hereupon the said plaintiff, in pursuance to the statute in such case made and provided, prays judgment of and upon the said verdict against the said Ferdinand Clark only, and it is granted, &c. Therefore it is considered that the said plaintiff do recover against the said defendant, Ferdinand Clark, his said damages, costs and charges by the jurors aforesaid, in form aforesaid assessed, and also eighty-three dollars and thirty-eight cents, for his said costs and charges by the said court, now here adjudged of increase to the said plaintiff, and with his assent, which said damages, costs and charges in the whole amount to three thousand five hundred and sixty-four dollars and sixty-four cents, and the said defendant, Ferdinand Clark, in mercy, &c.

Judgment signed, this 4th day of November, one thousand eight hundred and forty-two.
M. ULSHEFFER, *Pr. Judge.*

(Endorsed), N. Y. Common Pleas, Charles Stanton *vs.* Ferdinand Clark, judgment record.

F. A. HANFORD, *Attorney.*

$3564 64.
Filed, 4th Novr. 1842, 10 o'clock, 40.

All which we have caused, by these presents, to be exemplified and the seal of our said Court of Common Pleas to be hereto affixed.
[SEAL.]

Witness, LEWIS B. WOODRUFF.

Presiding Judge at the City of New York, the seventh day of May, A. D., 1851, and in the seventy-fifth year of our Independence.

GEO. W. RIBLET, *Clerk.*

I, Lewis B. Woodruff, Presiding Judge of the Court of Common Pleas of the State of New York, at the City of New York, do hereby

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certify that George W. Riblet, whose name is subscribed to the preceding exemplification, is clerk of the said Court of Common Pleas, duly elected and sworn, and that full faith and credit are due his official acts.

I further certify that the seal, affixed to said exemplification, is the proper seal of the said Court of Common Pleas, and that the attestation thereof is in due form of law.

J. B. WOODRUFF.

And now, at the same time, William H. Y. Hackett, comes into court here, and by his solicitor, James M. Carlisle, Esqr., files the following bill of complaint as part of the proceedings in this cause. To wit:

CIRCUIT COURT, D. C.
Washington Co.

BENJAMIN C. CLARK & al., Creditors of Ferdinand Clark,
vs.
FERDINAND CLARK.
} In Chancery.

To the Honble. the Judges of the Circuit Court of the District of Columbia. In Chancery.

Bill of Hacket.

Hereby complaining shows, your Orator, William H. Y. Hackett, that since the filing of the Bill of Complaint of the above named Benjamin C. Clark in this cause, to wit, on the 19th day of May, in the current year, 1851, by an order duly passed by the Honble. the District Court of the United States for the New Hampshire District, in the matter of the above named Ferdinand Clark, a bankrupt, your orator was duly appointed under the Act of Congress, entitled "An Act to establish a uniform system of Bankruptcy throughout the United States," approved the 19th August, 1841, the assignee of the estate of the said Ferdinand Clark, in the place of one John Palmer, who had formerly been such assignee, and who had departed this life. The evidence of which said appointment of your orator is herewith exhibited, marked No. 1. (Copied, p. 57.)

Your Orator further shows, that he has duly filed the bond in such cases required, and has been regularly qualified to act as such assignee, and has taken upon himself the duties and rights of said office.

Your Orator prays leave to come in under the prayer of the said original bill, and to be made the complainant in the said cause. He

states and shows that the said Ferdinand Clark, on or about the 27th day of January, in the year 1843, in the District Court of the United States for the New Hampshire District, filed his petition for the benefit of the Bankrupt Act aforesaid, and afterwards, by a decree of the said Court, duly passed on the 22d day of March, 1843, was duly and regularly declared a bankrupt. By force of which decree, and by mere operation of law, ipso facto from the time of such decree, all the property, and rights of property, of every name and nature and nature, and whether real, personal or mixed, except as in and by the said act is excepted of the said Ferdinand Clark, were divested out of him, the said Ferdinand, and by force of the same decree, vested in such assignee as should be appointed by the said Court from time to time.

That by a decree of the said Court, passed on the same day and year last aforesaid, the said John Palmer was appointed such assignee of said Clark, and assumed and took upon himself the duties of the said office; that he is since dead; that the said proceeding in bankruptcy is still pending, and has not been finally consummated; that no assets whatever of the said bankrupt were collected or received by the said John Palmer, or applied in any manner towards the satisfaction of the creditors of the said bankrupt, entitled to share in the distribution of his estate in said proceeding. That the said bankrupt returned a list, purporting to show his creditor's names, &c., and, in fact, showing a large number of creditors to a large amount; and your Orator has reason to believe, that the debts due by said bankrupt at the time of his bankruptcy, exceed in amount the award hereinafter mentioned; and he therefore charges the fact so to be, and that the same are still wholly unsatisfied.

That said bankrupt, prior to and at the date of his said bankruptcy, had among his assets a certain claim on the Republic of Mexico, which is the same identical claim, in satisfaction of which an award has been lately made by the commission appointed in pursuance of the Treaty of Guadalupe Hidalgo, for the sum of $\$86{,}786\frac{29}{100}$ which is the same award mentioned and referred to in the bill filed in this cause by the said Benjamin C. Clark.

That the said claim was returned by the said bankrupt in his schedule of property, but was not described in any manner to make the same available to his creditors; nor was any such information, nor were any such evidences, put into the possession of the said assignee, as would enable him to recover the said claim, but all such information and evidences were fraudulently withheld by the said bankrupt, and his assets and effects generally were so described in his schedules, that the said assignee was in ignorance of their true value, and, in fact, returned and reported to the said Court, that the same could not be sold, and, in fact, no right, title, interest, or estate in or of the said Mexican claim, ever passed out of the said assignee to any person whatever, or in any manner whatever reverted to or

became the property of the said bankrupt. Your Orator further shows that the said bankrupt has since prosecuted the said claim in his own name, falsely and fraudulently claiming that his debts in bankruptcy had been satisfied, and that the said claim had reverted to and revested in him; and further he shows, that the award aforesaid has been made for the sum aforesaid, on account and in payment of the said claim, and that the amount thereof, legally, and of right, and in conscience, belongs not to the said bankrupt, but to your Orator, as such assignee for the benefit of the creditors in bankruptcy.

Your Orator avers that the said Ferdinand Clark, by his agents, attorneys, and voluntary assignees, is demanding and seeking to receive the amount of the said award from the treasury of the United States, in fraud of his creditors in bankruptcy, and in fraud of the said Act of Congress, and in fraud of the rights of your Orator in the premises, and that he will so receive the same, unless enjoined by your Hon'ble Court.

He submits to your Honors, that the said Benjamin C. Clark, and others, the creditors of said Ferdinand at the date of his bankruptcy, who have filed their bills before your Honors, being in the condition of cestui que trusts whose trustee was dead, have complied with the terms, and true intent, and meaning of the Act of Congress in that behalf made and provided, and that he being now appointed and duly qualified as such assignee, as aforesaid, is entitled to have and receive the whole fund aforesaid, and to distribute the same under the orders and decrees passed, and to be passed, by the said Court in Bankruptcy. He exhibits herewith a transcript of the proceedings in said bankruptcy, duly certified, marked No. 2 (copied at p. 58).

And forasmuch as he is without remedy at law, and to the end that the Hon. Thomas Corwin, Secretary of the Treasury of the United States, be enjoined from paying, and the said Ferdinand Clark, his agents, attorneys, and allottees, claiming by, through, or under him, saving only your Orator or such assignees as may be hereafter appointed in his stead, may be commanded and strictly enjoined not to demand or receive the amount of the said award or any part thereof, till the further order of the Court, and that the said amount of said award may be decreed to be paid to your Orator or such other assignee as may be duly appointed in his stead, to be administered and distributed in bankruptcy according to law and right, and that such other and further relief may be granted as may be consistent with equity, &c. May it please your honors to grant the U. S. writ of Injunction, commanding, &c., and a subpœna, &c.

And your Orator will ever pray, &c.

W. H. Y. HACKETT.

CARLISLE, *Sol. for Compl't.*

UNITED STATES OF AMERICA,
District of Mass., ss.

On this thirteenth day of May, 1851, personally appears William H. Y. Hackett, the complainant in the aforesaid bill, and made oath that the facts therein recited, as of his own knowledge are true, and so far as stated on affirmation and belief, he believes them true as stated, before me,

GEORGE S. CURTIS, *Commissioner of the Circuit Court of the United States, for Mass'ts District.*

Thereupon Injunction and subpœna issued, as hereinbefore ordered, and mentioned at pages 8 and 9.

Exhibit No. 1.

Exhibit No. 1.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District,

No. 1663. In Bankruptcy.

May 19th, 1851. In the matter of Ferdinand Clark, who has, by a decree of this Court, been declared a bankrupt, pursuant to the Act of Congress, entitled, "An Act to establish a uniform system of Bankruptcy throughout the United States," passed August 19, 1841, it is ordered, that William H. Y. Hackett, of Portsmouth, in the County of Rockingham, in said District of New Hampshire, be and he is hereby appointed assignee of the estate of the said Ferdinand Clark, in place of John Palmer, the former assignee of said bankrupt, who is deceased.

And it is further ordered, that the said Hackett give security in a bond to the United States, with two sufficient sureties, to be approved by the Court, in the sum of twenty-five thousand dollars, conditioned for the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the Court.

ALBERT R. HATCH, *Clerk of the Court.*

I hereby certify that the foregoing is a true copy of the original decree, now on file, as of record, in said Court.

In witness whereof, I have hereto subscribed my name, and affixed the seal of the said Court, this thirteenth day of May, A.D. 1851. [L. S.]

ALBERT R. HATCH, *Clerk of the Court.*

996.

Exhibit No. 2.

Exhibit No. 2.

F. Clark's proceedings in Bankruptcy.

Petition by debtor for benefit of the Act of Congress.

To the Honorable, the Judge of the District Court for the District of New Hampshire,

Respectfully represents, Ferdinand Clark, of Exeter, in the County of Rockingham, and State of New Hampshire, merchant, that he is owing debts in his private right and capacity, to sundry creditors, a list of whose names and places of residence, and the amount due to each according to the best of his knowledge and belief, is contained in the schedule hereunto annexed, marked A., and that the annexed schedule, marked *B.*, contains an accurate inventory of his property, rights, and credits, of every name, kind, and description, and of the location and situation of each and every parcel and portion thereof, that he is unable to meet his debts and engagements, and he therefore applies to this honorable Court for the benefit of the Act of Congress, entitled, "An Act to establish a uniform system of Bankruptcy throughout the United States," and prays that after due proceedings had, he may be declared by a decree of the Court, to be a bankrupt within the purview of the said Act, and upon his compliance with all the requisitions of the said Act, and all the orders and directions of the Court in the premises, that he may be decreed to have a certificate of discharge from all his debts provable under the said Act, and otherwise entitled to all the benefits thereof.

FERDINAND CLARK.

On this twenty-seventh day of January, A.D. 1843, sworn to before me. R. RANTOUL, Jr.

Commissioner of the said Court, &c.

Order of the Court thereon.

District Court of the United States,
New Hampshire District.

On this 28th day of January, A.D. 1843, upon reading the foregoing petition, it is ordered by the Court, that notice thereof be published three times in the Exeter News Letter, Portsmouth Journal, and Hill's New Hampshire Patriot, newspapers printed in the district; the first publication to be at least twenty days before the 22d day of March next, when a hearing will be had on the said petition, at the court-house in Portsmouth, within the said district, at ten o'clock in the forenoon, so that persons interested may appear at said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

JOHN L. HAYS,
Clerk of the Court.

Schedule A, referred to in annexed Petition.

Date.	Names of Creditors.	Residence.	Nature of Debt.	Amount.
1841.	Clark & Co., acceptance, . . .	New York, . . .	Bill of Exchange,	
	Jacob B. Blanco, ...	Havana, ...	. . . . .	$3,000 00
	Thos. Dixon & Son, ...	Boston, ...	Do.	472 25
	N. P. Ramos, Havana, and Jno.	Grenga, New York, .	. . . . .	100 00
	Jose M. Salinio, Havana, and Jno.	Grenga, do.	. . . . .	515 00
	Do. do. do. do.	do do.	. . . . .	515 00
	Do. do. do. do.	do do.	. . . . .	515 00
	Juan Di La Carnano, do.	do pending in	Supreme Court,	
	Boston Agents, Chastillian &	Pouvers, N. Y., . .	. . . . .	4,000 00
	Wiggin & Davenport, ...	New Orleans, . . .	Bill of Exchange,	3,000 00
	W. S. F. Green, ...	Philadelphia, . . .	Do.	6,000 00
	Ramon de la Carnena, ...	Havana, ...	Do.	500 00
	L. Young, ...	New York, ...	Do.	135 50
	Picton Bishop, ...	Do. . . .	Do.	327 25
	Do. do.	Do. . . .	Do.	212 00
Mar. 21, 1841,	Russel E. Glover, ...	Do. . . .	Fabricated drafts not protested,	3,500 00
May 15, 1841,	Do. do.	Do. . . .	Do.	3,225 87
June 5, 1841.	Do. do., pending in law suit	in N. Y., by Step'n E.	Glover, fav. dr'fts,	2,000 00
May 8, 1841,	Do. do. do. do.	do. do. Cha's	Stanton, do.	1,687 12
May 15, 1841,	Do. do. do. do.	do. do. do.	do. do.	1,534 50
1841,	Barclay, Bro's, & Co., . . .	London, Eng'd, . .	Unsettled Acc't,	8,169 60
	Barclay & Livingston, . . .	New York	Agents. . .	
1842,	James Dengan, ...	Do. . . .	Note, . . .	400 00

1841.	John Dowbecker,	Do.	Do.	310 71
	H. H. Haven,	Do.	Do.	160 00
	D. Deshou,	Boston,	Acc't about	280 00
	W. R. P. Washburn,	Do.	Do.	600 00
	Mitchell A. Street,	New York,	Do.	200 00
	H. H. Waterhouse,	Do.	Do. unsettled,	900 00
	Matthew B. Vennard, And Sam'l Haybit,	Portsmouth, N. H., New Orleans,	D'ts unsettled,	
	Joseph L. La Goue,	Montevideo, B. Ayres,	Do.	600 00
	Late B. H. Cook, N. S. Petakin,	Bath,	Do.	200 00
	Geo. Weldes & Co., And Wm. C. Pickersgill,	London, Eng'd, New York,	2 notes, about	4,000 00
	Jose Julian Aquinne,	Havanna,	Unsettled acc't,	
	B. C. Clark, Jr.,	Boston,	Do. do.	
	E. W. Stone,	Do.	Claim in suit not admitted.	
	John Hall,	Do.	Acc't not do.	
	Glover & McMurray, fabricated, lent Russel E. Glover,	New York, of N. York,	Bill of Exchange,	1,500 00
	John Lilby,	Boston,	Unsettled acc't.	
	Calvin P. Bassett,	New York,	Do. do.	
	John B. Stadden,	Boston,	Acc't about	150 00
	John Clark,	New York,	In law suit.	

Christian names not mentioned are unknown to the petitioner.

FERDINAND CLARK.

Schedule B., referred to in annexed Petition.

Description of Property.	Location.	Amount.
Unsettled acc't p'd C. Flint & Co.,	Boston, about,	$30,000 00
Do. do. Caldwell & Trufant,	New Orleans,	6,000 00
Cap't F. C. Gellett's bill on Peter Laidlow of	do.	1,371 44
Unsettled acc't of Davison, Milliner & Co.,	Buenos Ayres,	10,000 00
Benjamin C. Clark, unsettled acc't,	Boston, about	30,000 00
Dow, Runike & Lee's Spanish Segars,	Buenos Ayres,	2,500 00
Cap't Wm. Neil, unsettled acc't,	Portsmouth, N. H.,	600 00
Cap't Michael Powers, do.	Marblehead,	500 00
R. F. Madden, balance account,	Havanna,	500 00
George Douglas, balance due from Fire Insurance Co. failed in	New York,	2,800 00
John Kilton, unsettled account,	Boston,	12,000 00
Alex'r Morales & Co., do. do.,	Havanna,	1,000 00
George Knight & Co., do. do.,	do.	387 00
J. M. Arcebeel, note,	do.	113 75
Bresbee & Adams' balance acc't,		139 96
Sam'l Arnold, unsettled do.	Charleston, S. C.,	410 21
A. B. Halsey, duties on goods,	New York,	103 44
Wm. Porter, unsettled acc't do.	New Orleans,	440 94
Ferguson, Parker & Co., do.,	do.	200 00
H. S. G. Hollinsworth, do. do.,	Philadelphia,	800 00
Thomas Fitch, unsettled acc't,	New York,	400 00
Brig Harriet Brainerd, of Hadden, Connecticut, disbursements and unsettled acc't,		1,200 00
J. L. Garreque, sales of 50,000 Spanish Segars,	Havanna,	468 75
Louis & Webber, note in hands of Andrew Williams,	New York,	1,386 94
French & Co., in acc't,	New York,	492 12
Joseph Hopkins Stewart, and Louisa Martha Stewart, Cash received of John Kittenen, my account,		9,000 00
Do. do. ship Hewes, part interest of Thos. Dunham, do.,		8,000 00

John Palmer, Assignee.

Brig Alexander, Cap't Matthews abscon'd with proceeds, . .		4,000 00
Brig Delta, Wiggin, and Davenport,	New Orleans,	8,000 00
Joseph H. Stewart, carpet, rocking chair, and bonnets, and claim ag'nst Jno. Cotter, & Hobart & Co., ...	New York,	500 00
4 certain notes, promissory, holden by Louise Martha Stewart against John C. Clark, Boston, for per rec't, do., about, . . .		12,000 00
Clark & Co., unsettled acc't, .	New York,	50,000 00
Russel E. Glover, unsettled acc't, damages, ...	do.,	30,000 00
John Silby, unsettled acc't of .	Boston,	
John Kitton, damages, various kinds, Boston, and for absconding from New York, . .		
John Clark, unsettled account, New York, pending in law, . .	New York,	450 00
Wearing apparel of myself; I have no family, ...		50 00
		$225,814 53

Christian names not mentioned are unknown to the petitioner.

FERDINAND CLARK.

On the foregoing Schedules A. & B. is the following endorsement, to wit,

Jan'y 27th, 1843, correct in form.

R. RANTOUL, Jr.,

Fees paid. *Commissioner.*

United States of America,

New Hampshire District, ss.

Know all men by these presents, that we, Ferdinand Clarke, Isaac P. Clarke, and George Clarke, said Ferdinand, of Exter, in the District of New Hampshire, and said Isaac and George of Boston, in the District of New Hampshire, are held and stand firmly bound and obliged unto the United States of America in the sum of sixty dollars, to be paid unto the said United States, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly, with these presents. Sealed with our seals, dated at Boston, the twenty-seventh day of January, in the year one thousand eight hundred and forty-three.

The condition of this obligation is such that if the above bounden Ferdinand shall pay, or cause to be paid to the Clerk of the District Court of the United States for the New Hampshire District, all such costs as shall be adjudged by said Court to be paid by the said Ferdinand personally, on account of any proceedings in, or by order of said Court upon the petition of said Ferdinand to be declared bankrupt, or upon any other petition, hearing, trial, or other proceeding consequent upon said petition in bankruptcy, and connected therewith, in pursuance of any rule, order, or decree of said Court, then this obligation shall be null, otherwise it shall remain in full force, and upon this further condition, that if, when said costs are taxed, and allowed by said Court, and adjudged to be paid by the said Ferdinand, he shall neglect, after notice thereof, for the space of ten days, to pay said costs to the Clerk as aforesaid, judgment may be rendered on this bond, on complaint by any person interested, and on motion in open Court, without further delay.

Signed, sealed, and deliv'd, in presence of
R. RANTOUL, Jr.

FERDINAND CLARK, [L. S.]
ISAAC P. CLARK, [L. S.]
GEORGE CLARK, [L. S.]

Massachusetts District, *ss.*

Jan'y 27th, 1843.

I hereby certify that, in my opinion, the sureties named in the foregoing obligation are of sufficient pecuniary ability to pay the amount thereof, and I also certify that the health of said Ferdinand is so infirm as to make it unsafe for him to come into the District of New Hampshire, wherein he claims his residence until his health shall improve.

R. RANTOUL, Jr.
Commissioner in Bankruptcy.

United States District Court,
New Hampshire District.

No. 1663. In Bankruptcy.

On this 28th day of January, A.D. 1843, upon the petition of Ferdinand Clark, of Exeter, in said district, merchant, to be declared bankrupt.

Ordered that a hearing on the said petition will be had at the court-house in Portsmouth, in said district, on the 22d day of March next, at ten o'clock in the forenoon.

JOHN L. HAYES, *Clerk.*

N. B.—To be published three times in the Exeter News Letter, the first publication to be made twenty days at least before the day assigned for the hearing, and the publisher of the paper will certify on the back of this, that the above order has been complied with.

Which said last-mentioned order is thus endorsed, to wit:

March 16th, 1843. We hereby certify, that publication has been made as within directed.

SMITH, HALL & CLARK, *Publishers.*

UNITED STATES DISTRICT COURT,
New Hampshire District.

No. 1663. In Bankruptcy.

On this 28th day of January, A.D. 1843, upon the petition of Ferdinand Clark of Exeter, in said District, to be declared bankrupt, Ordered, that a hearing on said petition will be had at the court-house in Portsmouth, in said District, on the 22d day of March next, at ten o'clock in the forenoon.

JOHN L. HAYES, *Clerk.*

N. B.—To be published three times in the Portsmouth Journal, the first publication to be made twenty days at least before the day assigned for the hearing, and the publisher of the paper will certify on the back of this, that the above order has been complied with.

Which said last-named order is thus endorsed, to wit:

Mar. 11th, 1843. I hereby certify, that publication has been made as within directed.

C. W. BREWSTER.

UNITED STATES DISTRICT COURT,
New Hampshire District.

No. 1663. In Bankruptcy.

On this 28th day of January, A.D. 1843, upon the petition of Ferdinand Clark, of Exeter, in said District, to be declared bankrupt, Ordered, That a hearing on the said petition will be had at the court-house in Portsmouth, in said District, on the 22d day of March next, at ten o'clock in the forenoon.

JOHN L. HAYES, *Clerk.*

N. B.—To be published three times in the Hill's New Hampshire Patriot, the first publication to be made twenty days at least before the day assigned for the hearing, and the publication to be made twenty days at least before the day assigned for the hearing, and the publisher of the paper will certify on the back of this, that the above order has been complied with.

Which said last-named order is endorsed as follows, to wit:

Concord, March 16th, 1843. I hereby certify, that publication has been made as within directed.

J. HILL & SON, *Publishers.*

Amendment.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

In Bankruptcy.

March 2d, 1843, in the matter of Ferdinand Clark.

Amendment.

On this day, the said Ferdinand Clark comes in, and by leave of Court amends schedule "A," annexed to his petition for the benefit of the bankrupt law of the United States, numbered 1663, in manner following, to wit: by adding to the names of creditors therein set forth, the following additions and remarks.

1836, James Norman, formerly of Havanna in the Island of Cuba, now of Calcutta, account unsettled (said Norman is insolvent).

1843, John B. Stoda of Boston, unsettled account (amount 150 00 (This name stated in schedule as "Stoddard").

John S. Mitchell, who resides in New Haven, Connecticut, is one of the firm of Street and Mitchell, mentioned in said schedule.

John G. Bailey, of New York, is the plaintiff in a suit pending in the U. S. District Court at Boston, founded upon the three Bills of exchange in favor of W. and F. Green of Philadelphia, mentioned in said schedule "A," for $6000 00.

George Wildes & Co., of London, and Wm. C. Pickersgill, of New York, hold two notes against said petitioner, one for 1220 25
And the other for 2842 48
(the amount of which was stated in said schedule as about $4000).

And said petitioner also amends the schedule, marked B, annexed to his said petition, in manner following, to wit, by adding thereto the following names of debtors and remarks.

James Norman, formerly of Havanna, Cuba, now of Calcutta, unsettled account, insolvent, amount unknown.

1843. Isaac Clark, of Boston, unsettled account, amount unknown, insolvent.

John B. Hitching, of New York, unsettled account, amount unknown, insolvent.

Russell E. Glover, of New York, unsettled account, damages of various kinds, $50,000.

Wiggin & Davenport, of New Orleans, an unsettled account (amount unknown.)

FERDINAND CLARK.

NEW HAMPSHIRE DISTRICT, *ss.*
On this second day of March, A.D. 1843, sworn to before me,
JAMES BELL,
Commissioner.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

In Bankruptcy.

Decreed a Bankrupt.

March 22, 1843. Upon the petition of Ferdinand Clark, of Exeter, in said District of New Hampshire, filed on the 28th day of January last past, praying to be declared a bankrupt, and there being satisfactory proof that due publication of notice has been made to all persons to appear in Court and show cause why the prayer of the said petitioner should not be granted, and no sufficient cause being shown, it is ordered and decreed by the Court, that the said Ferdinand Clark be and he is hereby declared and decreed a bankrupt, pursuant to the Act of Congress entitled "An Act to establish a uniform system of Bankruptcy throughout the United States, passed August 19, 1841."

JOHN L. HAYS,
Clerk of the Court.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

In Bankruptcy.

March 22, 1843. In the matter of Ferdinand Clark, who has by a decree of this Court been declared a bankrupt, pursuant to the Act of Congress entitled "An Act to establish a uniform system of Bankruptcy throughout the United States," passed August 19, 1841, it is ordered that John Palmer, of South Hampton, in the County of Rockingham, in said District of New Hampshire, be and he is hereby appointed assignee of the estate of the said Ferdinand Clark.

And it is further ordered, that the said John Palmer give security in a bond to the United States, with two sufficient securities, to be approved by the Court, in the sum of twenty-five hundred dollars, conditioned for the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the Court.

JOHN L. HAYES,
Clerk of the Court.

Petition by Bankrupt for his discharge.

To the Honorable the Judge of the District Court for the District of New Hampshire.

Respectfully represents

Ferdinand Clark,

of Exeter, in the County of Rockingham and District of New Hampshire, that on the twenty-second day of March last past he was duly declared a bankrupt, under the Act of Congress in that case made and provided; that he hath surrendered all his property and rights of property, and fully complied with, and obeyed, all the orders and directions of the Court touching his bankruptcy, and is ready to submit himself to any other and further examinations, orders, and directions, which the Court may require. He therefore prays, that after due notice and proceedings to be had in the premises, he may be decreed by the Court to have a full discharge from all his debts provable under the said bankruptcy, and a certificate thereof granted according to the Act of Congress, dated this twenty-fourth day of March, A. D. 1843.

FERDINAND CLARK,
by his Solicitors,
BELL & TUCK.

Order of the Court thereon.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

On this 25th day of March, A.D. 1843, on reading the foregoing petition, it is ordered by the Court, that notice thereof be published in Hill's New Hampshire Patriot, and Portsmouth Journal, newspapers printed in said District, seventy days at least before the twenty-first day of June next, when a hearing will be had on the said petition at Portsmouth, in the said District, at ten o'clock in the forenoon, and all creditors who have proved their debts, and other persons in interest, may appear at said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted. And it is further ordered by the Court, that all such creditors whose places of residence are known, shall be entitled to a notice of the same petition and order, either personally or by a letter addressed to each creditor at his known and usual place of residence, attested by the Clerk of the Court, and served or left at his usual place of abode by the Marshal, or his deputy, or sent by the mail, whereof due proof is to be given.

JOHN L. HAYES,
Clerk of the Court.

Assignee's Bond.

Know all men by these presents, that we, John Palmer, of South Hampton, John Kimball, of Exeter, and Joshua Magoun, of East Kingston, all in the County of Rockingham and State of New Hampshire, are indebted and stand firmly bound to the United States of America in the sum of twenty-five hundred dollars, to the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents. Sealed with our seals and dated this twenty-second day of March, A.D. 1844.

The condition of the above obligation is such, that whereas the above bounden John Palmer having been, on the first day of April, A.D. 1843, by order of the District Court of the United States for the District of New Hampshire, appointed assignee of the estate of Ferdinand Clark a bankrupt,

Now if the said John Palmer shall duly and faithfully discharge all his duties as such assignee, and comply with all the orders and directions of the court, pursuant to the ninth section of an Act of Congress, passed August 19, 1841, entitled "An Act to establish a uniform system of bankruptcy throughout the United States," then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered in presence of JOHN H. KIMBALL, SAMUEL N. KIMBALL.

JOHN PALMER, [L. S.]
JOHN KIMBALL, [L. S.]
JOSHUA MAGOUN. [L. S.]

NEW HAMPSHIRE DISTRICT, *ss.*, Dec. 6, 1844.

I hereby certify that, in my opinion, the sureties to the above bond are of sufficient pecuniary ability to pay the amount thereof.

AMOS TUCK,
Commissioner in Bankruptcy.

Assignee's Return.

The first return and account of John Palmer, assignee of Ferdinand Clark, of Exeter, in the County of Rockingham, a bankrupt.

Said accountant charges himself with the amount of property mentioned in the Schedule *B.* of said bankrupt, duly filed in the clerk's office, $265,814 53.

Expenses and disbursements, viz., assignee's personal services, expenses procuring bond and filing same, and making this report, $25 00

Amount which the assignee believes to be totally worthless. The assignee has not yet seen reason to think that enough would be realized by a sale of the bankrupt's effects to pay for the expense of

selling, so he prays that he may be allowed to charge back this amount as worthless, 265,814 53.

The assignee claims for his services as aforesaid, 25 00.

JOHN PALMER,
Assignee.

Explanatory Remarks.

EXETER, Feb. 14, 1845.

JOHN L. HAYES, ESQR.

SIR:—I have received of Isaac P. Clark for Ferdinand Clark, a bankrupt (No. 1663), twenty-five dollars in full, for my services as assignee of said Ferdinand's estate.

JOHN PALMER, *Assignee.*

The assets of said bankrupt will be insufficient to pay all costs, charges and expenses, and he desires that the sum of twenty-five dollars should be charged upon the bankrupt for the compensation and charges of assignee. The amount of moneys received by the assignee, for what and of whom received, appear in Schedule *A.*, hereto annexed.

Decr., 1844. JOHN PALMER, *Assignee.*

ROCKINGHAM, ss.
New Hampshire District, ss.

Decr., 1844. The said John Palmer, assignee of Ferdinand Clark, a bankrupt, personally appears and makes oath that, in assigning property of the said bankrupt, as provided by the third section of the bankrupt act, and in his discharge of all other duties as such assignee, he has conducted and will conduct faithfully and impartially, and according to his best judgment.

Before me, AMOS TUCK, *Justice Peace.*

On the said "Assignee's Return," is made the following endorsement, to wit;

UNITED STATES DISTRICT COURT.
New Hampshire, ss.

Decr. 16, 1844. I have examined the within account of the assignee, and I do hereby certify that the same is made in conformity with the rules of this court.

W. H. Y. HACKETT,
Com'r.

In Bankruptcy.

Amendment.—District Court of the United States, New Hampshire District, in Bankruptcy.

District of Massachusetts, Suffolk, ss.

December 14th, A.D., 1844.

In the matter of Ferdinand Clark—On this day the said Ferdinand Clark comes in, and by leave of Court amends schedule marked A., annexed to his petition for the benefit of the bankrupt law of the United States, number 1663, manner following, to wit, by adding to the names of creditors therein

1843.	John Preston, of Boston,	unsettled account.	
	E. A. & W. Winchester,	do.	do.
	Joseph Francis, of New Orleans,	do.	do.
	John Anderson, of New York,	do.	do.
	Jimenes Crea & Co., of Havanna,	do.	do.
	Washburn & Fuller, of Boston,	do.	do.
	Baring, Brothers & Co., of London,	do.	do.
	Timothy Wiggin & Co., of London,	do.	do.

And said petition also amends the schedule marked B., annexed to this said petition, in manner following, to wit, by adding thereto the names of debtors and remarks.

Enoch Train & Charles W. Cartwright of Boston, lawsuit pending and claim.

John Preston, of Boston,	unsettled account.	
J. P. Clark, of Boston,	do.	do.
Oliver P. Mills, of New York,	do.	do.
Glover & McMeenay, do.	do.	do.
Thomas Dunham & Joseph McMeenay, of New York,	do.	do.
G. B. Smith, of New York.	do.	do.
Andrew Williams, do.	do.	do.
John Anderson, do.	do.	do.
Wm. C. Lemon, do.	do.	do.
G. W. Hunt, do.	do.	do.
Amos G. Kitching, do.	do.	do.

Benjamin C. Clark, of Boston, various claims.
Benjamin C. Clark & Co., do. do. do.
Joseph W. Francis, of New Orleans, unsettled account.
Joseph Hopkins Stewart, his wife Louisa Martha, and George P. Burrell, her trustee, of New York, claim, damage, demands, &c.

James Kitching, of New York,	unsettled account.	
Stephen B. Munn, do.	do.	do.
Wm. H. Munn, do.	do.	do.
T. F. Cornell, do.	do.	do.

Stephen E. Glover, of New York, unsettled account.
Charles Stanton, do. do. do.
Allen & Paxor, do. do. do.
Theeron E. Clark, of Boston, do. do.
——— Matchett, of New York, do. do.
George Haden (Ebenezer Store), John Kitten, and the late Sheriff Huggardford, and others, of Boston, claims, damages, &c.
Charles Assecor, of New York, claim unsettled.
Capt. Asa Matthews, of South Yarmouth, Mass., the value of the brig Alexander, of New York, and damages, owned by Clark & Co.
United States Government of America claim.
Spanish Government do.
Buenos Ayres Government do.
Mexican Republic, subject to a mortgage.
E. D. G. Bumstead, of Havanna, do.
Ralph S. Dorr, of Boston, reputed partner of Davidson, Milliner & Co., of Buenos Ayres, and Davidson, Leland & Co., of Monte Video, unsettled account.
Francisco Paula Hormellos, of Havanna, unsettled account.
Amestaw Millet, of Havanna, do. do.
Sarah A. Gould, of New York, do. do.
Wm. A. Tyler, do. do. do.
Charles H. Brown, of Havanna, do. do.
——— Wilson, formerly constable of Boston, do. do.
Henry Copperthwaite & J. P. Peaslee, copartners, formerly of New York, claims and demands.
Mauateque Knight & Co., of Havanna, unsettled account.
George Knight & Co., do. do. do.
Jose Ardo, do. do. do.
Jimenes Crea & Co., do. do. do.
Barring, Brothers & Co., of London, do. do.
Timothy Wiggin & Co., do. do. do.
E. Root, of New York, do. do.
Nicholas P. Trist, late United States Consul of Havanna, a claim for damages.

F. CLARK.

John Palmer, Assignee.

Subscribed, sworn to on the day and year above written, before me,

FRANCIS B. HAYES,

Com'r of the District Court of the District of New Hampshire, within and for the District of Massachusetts.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

In Bankruptcy.

No. 1663. In the matter of Ferdinand Clark.

Costs.

Clerk's fees and costs of Publication.	
Entry of petition and order thereon,	50
Notices of publication,	75
Entry and decree of bankruptcy and copy on file,	50
Order appointing assignee and copy on file,	50
Notice to assignee,	25
Entry and order on petition of discharge,	50
Notices of publication,	50
Entry and decree of discharge and copy on file,	50
Certificate of discharge,	25
Making transfers of proceed'gs from docket to Reg'r,	1 00
Filing 20 papers, 10 cents each,	2 00
Copies of Schedule,	2 50
Taxing and receiving costs and paying over,	1 00
Notice to creditors by letter, 10 cts. each,	4 00
Adjournment and cert. to Circuit Court,	
Pub. of order on pet'n for decree of bank'cy, 3 papers,	1 50
" " " " " " discharge, 2 papers,	50
Copies and pub't'n of assignee's notices in 2 papers,	75
Blanks,	30
Services not enumerated, copy of decree of bankruptcy,	50
Discharge extra,	50
Marshall's fees,	4 00
Commissioner's fees,	1 00
Assignee's fees,	25 00
	$48 80

Taxed by JOHN L. HAYS, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

In Bankruptcy.

Dec. 17th, 1844.

Ferdinand Clark, of Exeter, in said District, a bankrupt, having filed his petition praying to be discharged in full from all his debts,

and for a certificate of such discharge, pursuant to the "Act of Congress, entitled An Act to establish a uniform system of Bankruptcy, throughout the United States," passed August 19th, A.D. 1841,

Bankrupt's Discharge.

And it appearing to the Court, that due notice has been given upon the said petition, and that the said bankrupt has bona fide surrendered all his property and rights of property, with the exception of the necessary household and kitchen furniture, and other articles and necessaries and wearing apparel, allowed to the said bankrupt, and in virtue of the proviso to the third section of said Act, and that the said bankrupt has fully complied with, and obeyed all the orders and directions which have been from time to time passed by this Court, and has otherwise conformed to all the requisites of the said Act, and that no written dissent to such discharge, has been filed by a majority in number and value of his creditors, who have proved their debts; and no cause being now shown to the Court, why the prayer of the petitioner should not be granted: It is therefore, by virtue of the Act aforesaid, ordered, decreed, and allowed by the Court, that the said Ferdinand Clark, be and he accordingly is hereby fully discharged, of and from all his debts owing by him, at the time of the presentation of his petition, on the 28th day of January, A.D. 1843, to be declared a bankrupt. And it is further ordered, that a copy of this decree, under the seal of this Court, be delivered to the said bankrupt as his certificate of discharge, upon the application by him therefor.

JOHN L. HAYES,
Clerk of the Court.

Petition of Assignee for Sale.

To the Honorable, the Judge of the District Court of the United States, New Hampshire District.

Respectfully shows, John Palmer, of South Hampton, assignee of the estate of Ferdinand Clark, of Exeter, declared by this Court a bankrupt, that the said—— at the time of his bankruptcy, was seized and possessed of the estate and property, in the schedule hereto annexed, marked A., specially set forth, that it will be for the benefit of the said estate, and of all parties having interest therein, that the same should be sold, transferred, and assigned. Wherefore, the petitioner prays the Court to pass an order for that purpose, according to the provisions of the Act of Congress, March 13, 1845.

JOHN PALMER, *Assignee.*

1004.

Schedule A.

All the demands set forth in the Schedule marked *B.* annexed to the Bankrupt's petition.

No. 1663.

Schedule *B.* referred to in the petition of Ferdinand Clark of Exeter.

Description of Property.	Location.	Amount.
Unsettled acc't, P. & C. Flint, &c.,	Boston, about	$30,000 00
Do. do. Caldwell & Infants,	New Orleans,	6,000 00
Capt. T. E. Gillet's bill on Peter Laidlow of,	Do.	1,371 44
Unsettled acc't, Davison Milliner, & Co.,	B. Ayres,	10,000 00
Benjamin C. Clark, unsettled acc't,	Boston, about	30,000 00
Dow, Runike & Lee's, Spanish segars,	Buenos Ayres,	2,500 00
Cap't Wm. Neil, unsettled acc't,	Portsmouth, N. H.,	600 00
Cap't Michael Powers, do.	Marblehead,	500 00
R. F. Madden, balance acc't,	Havanna,	500 00
George Douglass, balance due from Fire Insurance Co. failed in	New York,	2,800 00
John Kilton, unsettled acc't,	Boston,	12,000 00
Alexander Merales, & Co. do.	Havanna,	1,000 00
George Knight & Co., do.	do.	387 00
J. M. Arcebal, note, do.	do.	113 75
Brisbee & Adams, balance acc't,		139 96
Samuel Arnold, unsettled do.	Charleston, S. C.	410 21
S. B. Halsey, duties on goods,	New York,	103 44
Wm. Porter, unsettled acc't,	New Orleans,	440 96
Ferguson, Parker, & Co., do.	do.	200 00
S. & S. G. Hollingsworth, do.	Philadelphia,	800 00
Thomas Fitch, unsettled acc't,	New York,	400 00
Brig Harriet Brainard, of Hadden, Conn't, disbursements & unsettled acc't,		1,200 00
J. L. Garreque, sales of 50,000 Spanish segars,	Havanna,	468 75
Louis & Webber, note in hands of Andrew Williams,	New York,	1,386 94
French & Co., account,	New York,	492 12
Joseph Hopkins Stewart, and Louisa Martha Stewart, cash rec'd of John Ketten, on my acc't,		9,000 00

Do. do. Ship Hewes, put in trust of Thomas Dunham, . . .		8,000 00
Brig Alexander, Cap't Mathews, abscon'd with proceeds, . .		4,000 00
Brig Delta, Wiggin & Davenport & New Orleans, . . .		8,000 00
Joseph H. Stewart, carpet and rocking chair, and bonnets and claim against Jno. Cotter & Hobart & Co.	New York,	500 00
4 certain notes, "promissory" holden by Louisa Martha Stewart, against John Clark, of Boston, for her rect's, ...	Do. about,	12,000 00
Clark & Co., unsettled acc't,	N. Y. & damages,	50,000 00
Russell E. Glover, do . .	do. & damages,	30,000 00
John Selbey, unsettled acc't of,	Boston,	
John Kittere, damages of various kinds, and for absconding from N. York, ...	Boston,	
John Clark, unsettled acc't, New York, pending in law, . .	New York,	450 00
Wearing apparel of myself, I have no family, ...		50 00
		$215,814 53

I have no furniture or jewelry. Christian names not mentioned are unknown to the petitioner.

FERDINAND CLARK.

The petitioner amends the foregoing schedule *B.* in manner following, to wit, by adding thereto the following names of debtors, and remarks:

James Norman, formerly of Havanna, Cuba, now of Calcutta, unsettled acc't, insolvent to amount unknown.

1843. Isaac Clark, of Boston, unsettled acc't, amount unknown, insolvent.

John B. Kitching, of New York, unsettled acc't, amount unknown, insolvent.

Russell E. Glover, of New York, unsettled acc't, damages of various kinds. $50,000

$265,814 53

Wiggin & Davenport, of New Orleans, an unsettled acc't, amount unknown.

FERDINAND CLARK.

1015.

NEW HAMPSHIRE DISTRICT, *ss.*

On this second day of March, A.D. 1843, sworn to before me,
JAMES BELL,
Commiss'r, &c.

I hereby certify, that, in my opinion, the whole value of the assets to be sold in the present case, does not exceed fifty dollars.
JOHN PALMER,
Assignee.

March 13, 1845. Subscribed and sworn to before me,
AMOS TUCK,
Justice Peace.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

Order for Sale.

On this 14th day of March, A.D. 1845, upon reading the petition of John Palmer, assignee of the estate of Ferdinand Clark, declared bankrupt by this Court, representing that the said Ferdinand Clark, at the time of his bankruptcy, was seized and possessed of the estate and property in schedule marked *A.*, annexed to said petition, specially set forth, that it will be for the benefit of the said estate, and of all parties having interest therein, that the same should be sold, transferred, and assigned, and praying the Court to pass an order for that purpose, according to the provisions of the Act of Congress, and after due notice and hearing of said petition, it is ordered that the said demands set forth in the schedule marked *A.*, annexed to said petition, be sold at public auction within six months from the date of this order, and at such intermediate times, and at such places, as in the opinion of the assignee will best promote the interest of all concerned, after reasonable notice of such sale has been given, either by posting up, or inserting the same in some newspaper ten days before the sale of his demands.
JOHN L. HAYS,
Clerk of the Court.

Palmer's Death suggested.

To the Honorable Matthew Harvey, Judge of the United States District Court for the District of New Hampshire.

Charles G. Nazro, of Boston, in the District of Massachusetts, for himself and Benjamin C. Clark & Company, of the same Boston, respectfully represents: That the said Benjamin C. Clark & Com-

pany, and said Clark, all creditors of the estate of Ferdinand Clark, of Exeter, in said District, a bankrupt, whose proceedings in bankruptcy are regularly and seasonably instituted in said District Court; and that said John Palmer, of said Exeter, was by your Honor appointed assignee of the estate of said Ferdinand Clark; and that said John Palmer, some time since, deceased, without disposing of all the assets, or collecting all the dues belonging to the estate of said bankrupt; and that recent occurrences have given value to some of the uncollected and unsold claims belonging to the estate of said bankrupt, rendering it necessary to appoint an assignee to complete the business which said John Palmer, as assignee, left unfinished.

Wherefore, your petitioners pray, that William H. Y. Hackett, of Portsmouth, in said District, or some other suitable person, may be appointed assignee of said Ferdinand Clark, in place of said John Palmer, assignee, deceased.

CHARLES G. NAZRO,
for BENJ. C. CLARK & CO.,
and for BENJ. C. CLARK.

Portsmouth, May 15, 1851.

DISTRICT COURT, U. S.,
New Hampshire District.

In Bankruptcy. May 19, 1851.

Hacket appointed Assignee.

Ordered by the Court, that the prayer of the foregoing petition be granted, and that the said William H. Y. Hackett be appointed assignee for the purposes therein mentioned.

MATTHEW HARVEY,
D. J.

DISTRICT COURT OF THE UNITED STATES,
New Hampshire District.

No. 1663. In Bankruptcy.

May 19, 1851. In the matter of Ferdinand Clark, who has by a decree of this Court been declared a bankrupt, pursuant to the Act of Congress, entitled, "An Act to establish a uniform system of Bankruptcy throughout the United States," passed August 19, 1841, it is ordered, that William H. Y. Hackett, of Portsmouth, in the County of Rockingham, in said District of New Hampshire, be and he is hereby appointed assignee of the estate of the said Ferdinand Clark, in the place of John Palmer, the former assignee of said bankrupt, who is deceased.

And it is further ordered, that the said Hackett give security in a bond to the United States, with two sufficient sureties, to be approved by the Court, in the sum of twenty-five thousand dollars, conditioned for the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the Court.

ALBERT R. HATCH, *Clerk of the Court.*

Assignee's Bond.

Know all men by these presents—That we, William H. Y. Hackett, Ichabod Goodwin, and William H. Hackett, all of Portsmouth, in the County of Rockingham, and State of New Hampshire, are indebted, and stand firmly bound to the United States of America, in the sum of twenty-five thousand dollars, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators firmly by these presents, sealed with our seals, and dated this twentieth day of May, A.D. 1851.

The condition of the above obligation is such, that whereas the above bounden Wm. H. Y. Hackett having been, on the twentieth day of May, A.D. 1851, by order of the District Court of the United States, for the District of New Hampshire, appointed assignee of the estate of Ferdinand Clark, a bankrupt.

Now if the said Wm. H. Y. Hackett shall duly and faithfully discharge all his duties as such assignee, and comply with all the orders and directions of the Court, pursuant to the ninth section of an Act of Congress, passed August 19, 1841, entitled, "An Act to establish a uniform system of Bankruptcy throughout the United States," then the above obligation to be void, otherwise to remain in full force.

W. H. Y. HACKETT, [L. S.]
Signed, sealed, and delivered, ICHABOD GOODWIN, [L. S.]
in presence of WM. H. HACKETT, [L. S.]
CHARLES C. JONES.

NEW HAMPSHIRE DISTRICT, *ss.*

May 21st, A.D. 1851.

I hereby certify, that in my opinion, the sureties to the above bond are of sufficient pecuniary ability to pay the amount thereof.

ALBERT R. HATCH, *Comm'r in Bankruptcy.*

On the petition of W. H. Y. Hackett, Ordered, that the bankrupt be notified to appear at a hearing on the petition, to be had at Exeter, on the 3d Tuesday of December: fifteen days' notice to be given.

Nov'r 3, 1851. MATHEW HARVEY.

DISTRICT COURT OF NEW HAMPSHIRE,
County of Suffolk, District of Massachusetts.

On this twenty-first day of May, 1851, Charles G. Nazro, of Boston, in the District of Massachusetts, copartner with B. C. Clark, under the style and firm of B. C. Clark & Company, being duly sworn, upon his oath saith that Ferdinand Clark, of Exeter, who has been decreed bankrupt, in the District of New Hampshire, was, at and before the date of the decree declaring him bankrupt, and still is justly and truly indebted unto this deponent and the said B. C. Clark, in the sum of nine hundred seventy dollars twenty-six cents, being a balance of account as hereto annexed in the schedule marked *A.*, for which said sum or any part thereof, he, this deponent, hath not, nor hath his said copartner, any other person, to his or their use, to his knowledge and belief, received any security or satisfaction whatsoever.

Sworn to the day and year above noted, before me,

GEO. T. CURTIS,
Comm'r of the District Court of the District of New Hampshire, within and for the District of Massachusetts.

Schedule A.

Messrs. F. Clark & Co. of Havanna, in account with B. C. Clark & Co.

Dr.

1835.					
Dec. 15.	To balance on old account, . .	$3009 41			
	Less error interest, . . .	15			
		2994 41	351	175	17
" 31.	" sundry postages for the year 1835,	15 27	335		
	" " " Mr. Norman,	3 98		1	07
1836.					
Feby. 5.	" cash p'd dockage Brig Talisman,	13 44	299		67
" "	" F. A. Dexter's Bill protest "	6	299		30
May 22.	" cash p'd Glover & Richardson, bill stores for Brig Talisman,	246 49	192	7	89
	Amount of Interest,	185 10			
		3464 69		185	10

1836.							
Nov. 30.	To balance, ...			3464	69		
	" postage, 1836, ...			4	33		
				3469	02	177	102 34
	Interest in red figures,						4 35
	Balance interest acc't,			106	69		
				3575	71		106 69
1837.							
May 26.	To balance, ...			1946	02		
July 10.	" Geo. Knight & Co's, for protest of our draft on you,			14			
Dec. 31.	" Postages, ...				12		
1840.							
Aug. 18.	" cash p'd for translating documents relating to B'k Two Friends,			11			
1841.							
Apr. 14.	" Postages, ...			6	18		
	" In't on 1946 02, 46 mo. 18 d'ys,	453	42				
	" In't on 14, 45 mo. 3 d'ys,	3	16				
	" " " 11, 7 " 26 "		43				
		457	01				
	By " " 1530 39	302	43	154	58		
				2131	90		
	To balance bro't down, . . .			601	90		
1851.							
May 5.	" Interest 3672 days, . . .			368	36		
				$970	26		

Cr.

1836.					
Nov. 30.	By this am't due from F. Clark & Co. this day,	3464	69		
		3464	69		185 10
1837.					
May 26.	By nett sales segars p'r Sarah, p. sales rendered due, 11th June, 1837,	1629	69	16	4 35
	Balance interest,				106 69
	Balance due 25th May, 1837, .	1946	02		
		3575	71		106 69
1839.					
July 9.	By cash p'd by Geo. Knight & Co. 28th Dec., 1837,	1530			
1841.					
Apr. 13.	By balance due us this day,. .	601	90		
		2131	90		

Boston, May 5th, 1851. Errors excepted.

B. C. CLARK & CO.

Attest: GEORGE T. CURTIS,
Commissioner.

1000.

DISTRICT COURT OF NEW HAMPSHIRE,
County of Suffolk, District of Massachusetts.

On this twenty-fifth day of November, A.D. 1851, Mathew B. Vennard of Portsmouth, in the said District of New Hampshire, formerly co-partner in business with Samuel Haight, lately of New Orleans, under the firm of Vennard and Haight of said New Orleans, being duly sworn, upon his oath saith, that Ferdinand Clark, late of Boston, merchant, who has been declared bankrupt in the District of New Hampshire, at and before the date of the decree declaring him bankrupt, and still is justly and truly indebted unto this deponent and his said co-partner, in the sum of five hundred, forty-eight dollars, thirty cents, with interest from July 27th, 1842, according to the account annexed, for which said sum or any part thereof, he, this deponent, hath not, nor hath his said co-partner, any other person to his or their use, to his knowledge and belief received any security or satisfaction whatsoever.

M. B. VENNARD.

Sworn to, the day and year above noted.

GEORGE T. CURTIS,
Commissioner of the District Court of the District of New Hampshire, within and for the District of Massachusetts.

Mr. Ferdinand Clark, in acc't with Vennard & Hight. Dr.

1838, Sept. 15.	To cash from F. A. Brown, . . .			$1350
	In't to July 27th, 1842, . . .			313
				1663

1839.	Contra, Cr.			
Feby. 23.	By invoice of Coffee, . . .	756	94	
	" overshipment " . . .	167	62	
	" in't to July 27, 1842, . .	190	14	1114 70
1842, July 27.	Balance due V. & H., ...			548 30

M. B. VENNARD.

Names of Creditors residing out of the State, or whose Debt has been proved.	Residence, per Schedule A.	Time of fil'g Probate of Debt.	Time of issuing Letters of Notice.	When Served.	How Served.	By whom Served.	Clerks and Marshals' Fees.	
John Clark,	New York,		Ap'l 20, 1843,	May 20, 1843,	By letter,	Thomas Rand, Dep. Mar.,	10 cts,	10 cts.
John B. Stodden,	Boston,		"	"	"	Thomas Rand,	10	10
Calvin P. Basset,	New York,		"	"	"	Thomas Rand,	10	10
John Lilly,	Boston,		"	"	"	Thomas Rand,	10	10
Glover & McMurray,	New York,		"	"	"	Thomas Rand,	10	10
John Hall,	Boston,		"	"	"	Thomas Rand,	10	10
E. W. Stone,	"		"	"	"	Thomas Rand,	10	10
B. C. Clark, jr.,	"		"	"	"	Thomas Rand,	10	10
Jose Julian Aquinne,	Havanna,		"	"	"	Thomas Rand,	10	10
Wm. C. Pickersgill,	New York,		"	"	"	Thomas Rand,	10	10
George Wildes & Co.,	London, Eng.,		"	"	"	Thomas Rand,	10	10
W. S. Petakin,	Baltimore,		"	"	"	Thomas Rand,	10	10
Joseph L. Lafone,	Monte Video, B. Ayres,		"	"	"	Thomas Rand,	10	10
Samuel Haight,	New Orleans,		"	"	"	Thomas Rand,	10	10
H. H. Waterhouse,	New York,		"	"	"	Thomas Rand,	10	10
Mitchell & Street,	"		"	"	"	Thomas Rand,	10	10
W. R. P. Washburn,	Boston,		"	"	"	Thomas Rand,	10	10
D. Deshon,	"		"	"	"	Thomas Rand,	10	10
H. H. Haven,	New York,		"	"	"	Thomas Rand,	10	10
John Dowbeckee,	"		"	"	"	Thomas Rand,	10	10
James Dewan,	"		"	"	"	Thomas Rand,	10	10
Barclay & Livingston, Ag'ts Barclay, Bros. & Co.,	"		"	"	"	Thomas Rand,	10	10
Russell E. Glover,	"		"	"	"	Thomas Rand,	10	10
Picter & Bishop,	"		"	"	"	Thomas Rand,	10	10

L. Young,	"		"	"	"	Thomas Rand,	10	10
Ramon de la Camana,	Havanna,		"	"	"	Thomas Rand,	10	10
W. & T. Greene,	Philadelphia,		"	"	"	Thomas Rand,	10	10
Wiggin & Davenport,	New Orleans,		"	"	"	Thomas Rand,	10	10
Chastelain & Powers, Ag'ts, Juan de la Eamanee,	New York,		"	"	"	Thomas Rand,	10	10
Jose M. Saliniro,	Havanna,		"	"	"	Thomas Rand,	10	10
John Granger,	New York,		"	"	"	Thomas Rand,	10	10
N. P. Ramos,	Havanna,		"	"	"	Thomas Rand,	10	10
Thos. Dixon & Son,	Boston,		"	"	"	Thomas Rand,	10	10
Clark & Co.,	New York,		"	"	"	Thomas Rand,	10	10
Wm. C. Pickersgill,	"		"	"	"	Thomas Rand,	10	10
Geo. Wildes & Co.,	London,		"	"	"	Thomas Rand,	10	10
John G. Bailey,	New York,		"	"	"	Thomas Rand,	10	10
John S. Mitchell,	N. Haven, Con.,		"	"	"	Thomas Rand,	10	10
John B. Stoda,	Boston,		"	"	"	Thomas Rand,	10	10
James Norman,	Calcutta,		"	"	"	Thomas Rand,	10	10

I certify that the four written pages last foregoing are a true copy of that portion of the Records of the District Court of the United States for the District of New Hampshire, which are found in a book, entitled "Creditor's Letter Book," relating to the case of Ferdinand Clark in Bankruptcy.

ALBERT R. HATCH, *Clerk.*

March 24th, 1852.

No. 1663. Ferdinand Clark.
Bell & Tuck. Exeter.
Bankrupt petition. Filed January 28, 1843.
Hearing, March 22, 1843.
Publication as per order on file.
Amendment filed March 3, 1843.
Decree, March 22, 1843.
John Palmer, of South Hampton, assignee.
Decr. 20, 1844. Assignee to give bond in the sum of $2500.
Petition for discharge filed Mar. 25, 1843.
Hearing, June 21, 1843.
Publication as per order on file.
Rehearing.
Discharge, Decr, 17, 1844.
Petition for license to sell, M. 14, 1845, and decree.
Petition of C. G. Nazro & als. for new assignee, May 19, 1851.
W. H. Y. Hackett, of Portsmouth, assignee, in place of John Palmer, deceased, May 19, 1851.
Assignee's bond filed May 21, 1851.
B. C. Clark & Co. proof debt filed May 22, 1851.
Mathew B. Vennard proof of debt filed Dec. 1, 1851.

I, Albert R. Hatch, Clerk of the District Court of the United States for the District of New Hampshire, do certify that the above is a true copy of that portion of the record of said court, which is contained in a book called "Docket in Bankruptcy," that relates to the case of Ferdinand Clark. ALBERT R. HATCH,
Mar. 24, 1852. *Clerk.*

I, Albert R. Hatch, Clerk of the District Court of the United States, within and for the District of New Hampshire, do certify that the foregoing forty leaves are true copies of all the papers, files and records remaining in said court in the case of Ferdinand Clark, in bankruptcy, this day compared with the originals by me.

[SEAL.] In witness whereof I have hereunto set my hand and the seal of the said court, this twenty-fourth day of March, in the year of our Lord, one thousand eight hundred and fifty-two.

ALBERT R. HATCH,
Clerk, &c.

District of New Hampshire, ss.

March 22, 1852.

I, Matthew Harvey, Judge of the District Court of the United States for the District of New Hampshire, do hereby certify that Albert R. Hatch, Esqr., is clerk of said court and the keeper of the

seal thereof, and that the annexed certificates of the said Albert R. Hatch are genuine.

MATTHEW HARVEY.

At the same time Wm. C. Pickersgill, by his solicitors, David A. Hall and James M. Carlisle, Esqrs., filed here in court the following petition, to wit,

In the Circuit Court of the United States for the District of Columbia.

In Equity.

BENJAMIN C. CLARK
against
FERDINAND CLARK, and others.

To the Honorable the Judges of the Circuit Court of the United States, sitting within the District of Columbia, sitting in equity.

Petition of Pickersgill.

Your petitioner, William C. Pickersgill, by D. A. Hale, his solicitor, respectfully showeth that, as he is informed and believes, the above named Benjamin C. Clark, who is a resident and citizen of Boston, in the State of Massachusetts, filed his bill in this honorable Court as well on behalf of himself as of all the other creditors of Ferdinand Clarke, herein elsewhere named who should come in and contribute to the expense of that suit, that, as he is also informed and believes, such bill among other things states and alleges that said Ferdinand Clarke was indebted to the said Benjamin C. Clarke in a large sum of money, for which a judgment was recovered and docketted in the Superior Court of the City of New York, on the 29th day of June, 1842, for $25,453 28, that, as he is informed and believes, subsequently to the rendition of such judgment in favor of the said Benjamin C. Clarke, the said Ferdinand Clarke presented his petition to the District Court of the United States for the District of New Hampshire, sitting at Portsmouth, to be declared a bankrupt, which, as he is also informed and believes, was presented to such last-named court on the 28th day of January, and such proceedings were had thereon in said last-named court, that on the 17th day of December, 1844, the said Ferdinand Clarke was discharged and released from his debts by the final decree of said last-named court, but whether such decree was properly made or not and whether such last-named court ever acquired jurisdiction of the person of the said Ferdinand Clarke, your petitioner intends neither to admit nor deny, being ignorant of the particulars of the said proceedings in bankruptcy.

And your petitioner further states and shows to the Court, as he is informed and believes, that under such proceedings in bankruptcy an official assignee of the property and effects of the said Ferdinand Clarke was appointed, whose name is John Palmer, herein elsewhere mentioned; that said last-named assignee died some time after his appointment, and one William H. Y. Hackett has recently been appointed assignee in his place and stead.

And your petitioner further shows to this honorable Court, as he is informed and believes, that the bill of said Benjamin C. Clarke further states, in substance and effect, as your petitioner is informed and believes to be true, that an award has been made in favor of the said Ferdinand Clarke, by the Board of Commissioners, appointed and acting under the provisions of the treaty between the United States and the Republic of Mexico, commonly called the treaty of Gaudaloupe Hidalgo; that the sum so awarded was eighty-nine thousand seven hundred and fifty dollars, or thereabouts.

And your petitioner further states, upon his information and belief, that the claim upon which the said last-named award was based, was the property of the said Ferdinand Clarke, before the year one thousand eight hundred and forty-two, and before the rendition of either of the judgments in favor of your petitioner against the said Ferdinand Clarke, hereinafter mentioned.

And your petitioner further states to this honorable Court, that on the twenty-sixth day of February, then as yet of the term of February, one thousand eight hundred and forty-two, in the Superior Court of the City and County of New York, your petitioner recovered against the said Ferdinand Clarke, by the consideration and judgment of the said Court, the sum of three thousand and forty-five dollars and sixty-one cents, as well by reason of the non-performance of certain promises and undertakings then lately made by the said Ferdinand Clarke to your petitioner, as his costs and charges in and about that suit expended; that on the twenty-seventh day of June, 1842, then as yet of the term of June, one thousand eight hundred and forty-two, in the said Superior Court of the City and County of New York, your petitioner recovered against the said Ferdinand Clarke, by the consideration and judgment of the said Court, the further sum of twelve hundred and forty-two dollars and forty-five cents, as well by reason of the non-performance of certain other promises and undertakings then lately made by the said Ferdinand Clarke to your petitioner, as for his costs and charges in that behalf expended, whereof the said Ferdinand Clarke was convicted, as by the record and docket of the said judgments respectively now in the office of the clerk of the said Superior Court at the City Hall in the City of New York, or by exemplified copies thereof, reference being thereunto had, and to which, for greater certainty, your petitioner prays leave to refer, will more fully and at large appear.

And your petitioner further states, that the process by which each of the last above mentioned suits in the said Superior Court was commenced, was personally served on the said defendant, Ferdinand Clarke.

And your petitioner further shows unto this honorable Court, that the said judgment for $3045\frac{61}{100}$ so recovered, in manner aforesaid, remaining in full force and effect, and the damages and costs aforesaid remaining unpaid and unsatisfied, your petitioner, on or about the 31st day of March, 1842, for the purpose of obtaining satisfaction of the said judgment, sued and prosecuted out of the said Court a writ of the people, called a fieri facias, directed to the Sheriff of the City and County of New York, that being the county in which the defendant was personally served with the process in that suit, he residing out of the said State, by which said writ the said sheriff was commanded, that of the goods and chattels of the said defendant, within this county, he should cause to be made three thousand and forty-five dollars and sixty-one cents, for the damages and costs aforesaid, and if sufficient goods and chattels of the said defendant could not be found in his county, that then he should cause the damages and costs aforesaid to be made of the real estate which the said defendant had on the 26th day of February, 1842, or at any time afterwards, in whose hands soever the same might be, and that he should have that money before the Justices of the said Court at the expiration of sixty days after the receipt thereof by him, to satisfy the judgment so recovered by your petitioner as aforesaid and that he should have then there that writ.

And your petitioner further shows unto this Honorable Court, that the said said writ, before the delivery thereof to the said Sheriff, was duly endorsed, with a direction for the said Sheriff to levy the sum of $3045\frac{61}{100}$, with interest from the 26th February, 1842, besides his fees, and that the said writ, so endorsed, as aforesaid, afterwards, to wit, on the 31st day of March, 1842, was delivered to the said Sheriff, to be executed in due form of law.

And your petitioner further shows unto this Honorable Court, that the said Sheriff, on the 4th day of June, 1842, returned the said writ to him in that behalf, directed and delivered, as aforesaid, with his return endorsed thereon, in substance, that there were no goods, chattels, lands, or tenements, of the said Ferdinand Clarke, defendant, in his county, whereof he could make the damages and costs aforesaid, or any part thereof, as by the said writ, and the directions and return endorsed thereon, as aforesaid, filed in the office of the Clerk of the said Court, at the City Hall, in the City of New York, on the fourth day of June, in the year 1842, will more fully appear, and to which, or to an exemplified copy thereof, your petitioner prays leave to refer, of all which matters, herein above stated, relating to the recovery of the said judgments, the issuing of the said

writ, and the return thereof, your petitioner has been informed by Griffin & Havens, Esquires, his attorneys in said suits, and your petitioner believes the same to be true.

And your petitioner further shows unto this Honorable Court, that, as he has been informed, and believes to be true, the said judgments respectively still remain in full force and effect, not reversed, or satisfied, or otherwise vacated, and that the defendant has not, nor has any person or persons in this behalf paid the same, or either of the same, to your petitioner, but has hitherto wholly neglected and refused so to do.

And your petitioner further shows unto this Honorable Court, that there is now actually and equitably due to your petitioner the whole amount of the said judgments respectively, with interest on the same at the rate of seven per centum per annum (which is the legal rate of interest in the State of New York), from the several times at which they were rendered, over and above all just claims of the said defendant Ferdinand, by way of offset or otherwise.

And your petitioner further states to this Honorable Court, that after the return of the said writ of fieri facias so issued, as aforesaid, and on or about the 22d day of June, 1842, your petitioner filed his bill in the Court of Chancery, at the State of New York, in which it is stated, among other things, the recovery of the said judgment for $\$3045\frac{61}{100}$, the issuing and return of the said writ of fieri facias; that the judgment was unsatisfied, and that the defendant, the judgment debtor, had property, out of which the said judgment might be satisfied, in whole or in part, and praying a discovery of the property and effects of the defendant, and that the same might be applied in satisfaction of your petitioner's claim, and praying also for an injunction, "ne exeat Respublica," and subpœna; that a subpœna, duly issued in the last-named suit out of the Court of Chancery, in the said State of New York, was personally served on the defendant therein; that a motion was made in the said Court of Chancery, before the Vice-Chancellor of the first circuit of said State, sitting in the City of New York, for an order appointing a receiver of the goods, chattels, and effects of the said Ferdinand, and on the 28th day of June, 1842, the said motion was granted, and an order was entered in the said Court on that day, referring it to David Codwise, one of the Masters of that Court, residing in the City of New York, to appoint a Receiver in said last-named suit, of the money, property, things in action, and effects of the said defendant, with the usual powers and authority of receivers in like cases, and that such Master take from such Receiver the necessary and usual security, and file the same in the proper office; and in pursuance of the said last-mentioned order, the said David Codwise appointed William A. Boothe, of the City of New York, such Receiver. That on the said reference, the said Codwise, Master as aforesaid, was attended by the

Solicitor and Counsel of your petitioner, and by the Solicitor and Counsel of the said defendant; that said Booth was proposed as Receiver, and no objection being made to his appointment by the counsel of the said Ferdinand, and the Master deeming him a fit and proper person to execute the trust, appointed him such Receiver; that the said Booth thereupon accepted the said office of Receiver, and executed his official bond for the faithful discharge of the duties of the said office; that the said Master made a report of such appointment to the said Court of Chancery, which was dated the 3d day of August, 1842, and filed on the 6th day of August, 1842, and confirmed by the said Court of Chancery, and the said Booth thereupon became fully invested with the powers and authority of such Receiver.

And your petitioner further respectfully represents to this Honorable Court, that by the law of the State of New York, when the said last-named Bill in Chancery was filed, and from that time to the present and now, the commencement of a suit in a court of equity, by the filing of a bill like that of your petitioner above stated, by a judgment creditor, whose execution at law has been returned unsatisfied, gave and gives to him an equitable lien upon the property, real and personal, and things in action, of the judgment debtor. The lien acquired by the creditor is defeasible only by a discharge of the debt, nor can the debtor set up in such a suit, any defence to the original demand on which the judgment was recovered, nor any irregularity in its entry or on the execution, nor that the sheriff refused to levy on property, unless the creditor colluded with him in his misconduct. A discharge of the debtor in bankruptcy, or insolvency, from his debts, pending the suit, does not (by the law of that State) operate to discharge or impair the lien acquired by the commencement of such suit. The suit may proceed in rem, although the person and the future assets of the debtor may in the mean time be exonerated. On an order being made for the appointment of a Receiver in such a suit by a judgment creditor, and upon the appointment being completed, the property of the defendant vests in such Receiver in Equity, as of the date of the order, without the execution of any transfer or assignment, such order being equivalent, in contemplation of law, to an actual levy on the property.

And your petitioner respectfully insists that, under the law of the State of New York, which is above set forth, he became, by the filing of his aforesaid bill in the Court of Chancery, entitled to an equitable lien on all the things in action, property and effects of which the said Ferdinand was seised on the 21 day of June, 1842, and that such lien has never been arrested: that it attached to the claim of the said Ferdinand, upon which said award was founded, and that your petitioner is entitled to have the sums due on the said judgments, and the interest thereon, paid out of the moneys awarded to the said

Ferdinand as aforesaid, prior to any other creditor of the said Ferdinand, unless such creditor shall make it appear to this honorable Court that he has acquired some prior valid lien upon said fund, and he therefore prays that he may be declared to be a creditor of the said Ferdinand, and entitled to come in under the bill filed by the said Benjamin C. Clark, and be deemed a party thereto.

Your petitioner further prays, that it may be decreed that your petitioner has a lien upon the fund awarded as aforesaid, prior to any other creditor, that the sums due to your petitioner in respect of said judgments, principal and interest, may be paid to him in the first instance, and before any other claim thereon is satisfied. Or, if that shall seem to this honorable Court to be the most appropriate relief, that the said William A. Booth, receiver as aforesaid, may be made a party to the said suit commenced by the bill of the said Benjamin C. Clarke, that he may in due time be permitted to come in and assert his rights in that suit, that it may be declared that he became vested with all the property and things in action of said Ferdinand Clark, on the 26th day of June, 1843, and that he is entitled to the fund created by the said award, for distribution among the creditors who shall be respectively entitled to the same, or for such other, or further, or different order or relief in the premises, as to this honorable Court shall seem meet and proper.

W. C. PICKERSGILL,
D. A. HALL, *Solicitor*,
J. M. CARLISLE.

CITY AND COUNTY OF NEW YORK, *ss.*

William C. Pickersgill, the petitioner, named in the foregoing petition, and who subscribed the same, being duly sworn, deposes and says that he has read the foregoing petition, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be on his information and belief, and as to those matters, he believes it to be true.

W. C. PICKERSGILL.

Sworn to before me, this 31st day of May, 1851.
JOHN W. NELSON, *U. S. Commissioner.*

NEW YORK, *ss.*

I certify that I am well acquainted with the handwriting of John W. Nelson, and know that the name to the above jurat is in his handwriting, and that he is a United States Commissioner, duly appointed by the Circuit of the Southern District of New York, May 31, 1851.

S. NELSON, *Asst. Justice Sup. Ct. U. S.*

And now, at the same time, comes into Court here, William W.

Chester, and by his solicitor, David A. Hall, Esq., files in Court the following petition, to wit:

In Chancery.

BENJAMIN C. CLARK
against
FERDINAND CLARK.

Chester's Petition.

To the Judges of the Circuit Court of the District of Columbia, for the County of Washington, sitting as a Court of Chancery.

The petition of William W. Chester, a resident and citizen of the City, County, and State of New York, by D. A. Hall, his solicitor, respectfully showeth unto your honors, that he, on the 15th day of May last, duly filed with the Secretary of the Treasury, of the United States, a notice, in writing, to the effect that he intended to contest the whole, or some part of the award made to Ferdinand Clark, and also a bond with sufficient sureties, approved of by the proper officer, as provided by the Act of Congress, passed on the 3d day of March, 1849, and also filed his bill of complaint in this honorable Court on the same day, as a judgment creditor of the said Ferdinand Clark, and for the purpose of obtaining a preferential lien upon a certain fund or award, now standing in the name of the said Ferdinand Clark, in the office of the Secretary of the Treasury of the United States, growing out of a Mexican claim, and made in favor of the said Ferdinand Clark by the Commissioners appointed under the Act of Congress of the United States, passed on the third day of March, in the year 1849, under the treaty between the United States and the Republic of Mexico, and which award is in the sum of eighty-six thousand, seven hundred and eighty-six dollars and twenty-nine cents, and for other specific relief therein prayed for, as will appear by said bill on file as aforesaid.

And your Orator further showeth unto your honors, that he has been informed, and believes, and therefore so states the fact to be, that since Ferdinand Clark was reputed to have been declared a bankrupt, and discharged under the provision of the late bankrupt Act of the United States, at Portsmouth, in the State of New Hampshire, and that it was alleged that his assignee in bankruptcy was deceased, and that said assignee of said Clark would have been, were he alive, entitled to claim the payment of the said award to himself as such assignee, to be distributed according to law among the creditors of the said Ferdinand Clark.

And your Orator further showeth unto your honors, on information and belief, that in view of said assignee of said Clark having departed this life, and in view of the fact that no other assignee had been duly appointed, and of the peculiar exigency of circumstances arising from the necessity created by said Act of Congress, making it imperative to take certain proceedings within a limited time, the said Benjamin C. Clark, by advice of counsel, duly filed a proper notice in writing, with the Secretary of the Treasury of the United States, and also filed a bond with good and sufficient sureties, approved of by the District Attorney within the time prescribed by the said Act of Congress, and pursuant to its provisions, whereby the said Secretary was notified that the whole of the said award was claimed by the said Benjamin C. Clark.

And your Orator further showeth unto your honors, that in view of the provisions of said Act of Congress, and of the exigency of the circumstances growing out of the necessity of there being immediate action had in the premises, he has been informed, and believes that said B. C. Clark, with a view of protecting his own rights as a judgment creditor of the said Ferdinand Clark, and also of permitting all other creditors of said Clark to protect their respective rights, did within the time supposed to be prescribed by said Act of Congress, file his bill in equity in his own behalf as well as in behalf of all other creditors, upon certain terms named in said bill, reference thereto being had for a more particular description thereof, and that said bill, among other things, stated that said Ferdinand Clark had been discharged under the Bankrupt Act of the United States, and that the assignee of said Clark had since died, and that said bill presented the rights of the said B. C. Clark in two aspects; first, relying upon his rights, in the sole capacity of a judgment creditor, and then upon his rights under and through the proceedings of the said Ferdinand Clark in bankruptcy, and upon such other and fuller proceedings as therein might be adopted.

And your Orator further showeth unto your honors, that he has been informed and believes, that since the filing of said bill by the said B. C. Clark, that one William H. Y. Hackett has been appointed assignee in place of the former assignee of the said Ferdinand Clark in bankruptcy, and that said newly appointed assignee intends in some way or other, to come into this Court and to establish his claim, as such assignee, to the whole of said award, and now standing in the name of the said Ferdinand Clark.

And now so it is, and may it please your honors that your petitioner, in consideration of the premises and without in the least waiving any preference, right, or lien obtained by your Orator upon said award, under and by virtue of the bill filed by your Orator, and of other proceedings had by your Orator as aforesaid in the premises, and without intending hereby to acquiesce in or acknowledge the

right of the said B. C. Clark to claim the whole of said award, either in his own name or in the name of the said assignee in bankruptcy—Your Orator very respectfully begs leave to file this his petition for the purpose of being made a party defendant in this suit, and with a view of having his rights and interests in the premises maturely considered, and so that no laches of his own may be taken to his prejudice.

In consideration whereof, and forasmuch as your Orator is desirous of being fully represented in this suit, or in any suit that may be commenced in behalf of said Ferdinand Clark's assignee, either by way of amendment to the bill filed by the said B. C. Clark or other otherwise, your Orator begs leave respectfully to suggest or to show unto your oraters.

That he is now the lawful owner and assignee of a certain judgment, in favor of one Stephen E. Glover against the above-named defendant, Ferdinand Clark, which judgment was obtained in the Supreme Court of judicature in and for the State of New York, in the sum of nine thousand five hundred and four dollars and thirty-three cents, and which judgment was perfected, and docketted on the seventh day of October, in the year 1842, which will more fully appear by reference to the record of the same, now on file in the clerk's office of the said Supreme Court, or to an exemplified copy thereof now on the files of this honorable court and annexed to his this petitioner's Bill of Complaint, in his said suit recently commenced in this court in favor of your petitioner against said defendant as aforesaid, (copied at p. 139). And your petitioner further showeth unto your honors, that said judgment is wholly unpaid, and that the same never has been discharged or cancelled as of record, and still remains in full force and virtue, and that the whole sum of principal together with the interest thereon to the present time, is now justly due and owing from said defendant to your petitioner, and that no part thereof has ever been paid.

And your petitioner further showeth unto your honors that, as he has been informed and believes, that upon said judgment an execution, commonly called a writ of fieri facias, was duly and regularly issued out of and under the seal of said court, directed and delivered to the sheriff of the City and County of New York, where the said defendant Clark then resided, and where he had his domicil, commanding him, the said sheriff, of the goods and chattels of him the said defendant within his bailiwick, he should cause to be made the said sum of nine thousand five hundred and four dollars and thirty-three cents, and if sufficient goods and chattels of said defendant could not be found in his bailiwick, that then and in that case he should cause the amount thereof to be made of the lands and tenements, real estate and chattels real, whereof the said defendant was seized on the said seventh day of October, 1842, on which day the

said judgment was docketted in the clerk's office of said Supreme Court, or at any time afterwards in whosoever hands the same might be, and that he should have those moneys before the justices of the said Supreme Court sixty days after the receipt of the said writ by him the said sheriff, and that he should have then and there what writ.

And your petitioner further showeth unto your Honors, on information and belief, that the said Sheriff of the City and County of New York, at and after the expiration of the time therein limited for the return of the said writ of fieri facias, returned to the said writ that the said defendant had no goods or chattels, lands or tenements, real estate or chattels real, within his bailiwick, whereon to levy and satisfy the same, or any part thereof.

And your petitioner further showeth unto your Honors, that in like manner he is the lawful owner and assignee of the equal undivided half part of two other certain judgments now standing on the docket of the Supreme Court of Judicature in and for the State of New York, to wit: one judgment in favor of Stephen E. Glover, and one Joseph McMurray, as plaintiff therein against the said Ferdinand Clark, and which judgment was docketted in said Court, in its Clerk's Office, on the 11th day of October, in the year 1841, for the sum of $1557 and seventy-seven cents, and which judgment has never been cancelled, paid, or discharged of record, and still remains in full force and virtue, and in which judgment your Orator claims to be interested to the extent of one-half part thereof.

And your petitioner further showeth unto your Honors, that the other judgment above mentioned stands in the name of said Stephen E. Glover and Joseph McMurray, as plaintiffs against the said Ferdinand Clark, and is docketted in the office of the Clerk of the Supreme Court in and for the State of New York, on the 11th day of December, in the year 1841, and in the sum of $1557 77, and which has never been paid, satisfied, or discharged, and which has never been paid, satisfied, or discharged, and which two several judgments last named in the aggregate amount to the sum of three thousand one hundred and fifteen dollars, and the interest thereon since the docketting of the same.

And your Orator further showeth unto your Honors, on information and belief, that executions have been duly issued on said judgments, directed to the Sheriff of the City and County of New York, the then residence of the said Ferdinand Clark, commanding him to levy the amount thereof of the personal on real estate or property of the said Clark, and to which executions the said Sheriff made due return thereon, that no goods or chattels, lands or tenements, of the said Ferdinand Clark, could be found, whereof to satisfy the same, or any part thereof.

And your petitioner further showeth unto your Honors, on in-

formation and belief, and therefore so charges the fact to be, that upon a certain judgment or judgments in favor of one William C. Pickersgill against said Ferdinand Clark, recovered in the year 1842, in the Superior Court in the City of New York, certain proceedings were had in the nature of a creditor's bill, whereby, and pursuant to which, in the Court of Chancery in the State of New York, an order was made, granting unto the said Pickersgill the people's writ of injunction, and also the people's writ of subpœna, issuing out and under the seal of the said Court of Chancery, and which said writs were duly directed to the said Ferdinand Clark, and personally served upon him some time in the year 1842.

And your petitioner further showeth unto your Honors, on information and belief, that by an order of the said Court of Chancery, bearing date on the 28th day of June, in the year 1842, made on the said suit, in favor of the said William C. Pickersgill, against the said Clark, whereby, amongst other things, it was referred to one David Codwise, Esq., one of the Masters of said Court, to appoint a Receiver in said cause of the money, property, things in action, and effects of the said Ferdinand Clark, and that thereupon, as it appears by the report of the said Master, now on file in the office of the Supreme Court in the State of New York, after being attended on said reference by the solicitor and counsel of the said Pickersgill and said Clarke, the said Master duly appointed one William A. Booth to be the Receiver in said cause, and that said Booth thereupon executed a bond in the usual form, in the penal sum of nine thousand dollars.

And your petitioner further showeth unto your Honors on information and belief, that the said Ferdinand Clark, at the time of the rendition of all of the above-named several judgments, and at the time of the filing of the said judgment-creditor's bill by the said William C. Pickersgill, and at the time of the service of the said people's writs of injunction and subpœna, was an actual resident of and domiciled in the City, County, and State of New York, and that by virtue of said residence, and the due and personal service of said process of subpœna and injunction, the said Court of Chancery, in the State of New York, acquired complete jurisdiction over the person, property, and effects of the said Ferdinand Clark, and that he thereby and thereafter was made amenable to and was bound to obey the future order and decrees of said Court.

And your petitioner further showeth unto your Honors on information and belief, that by virtue of said injunction, the said Ferdinand Clark was absolutely enjoined, together with his counsellors, attorneys, trustees, and agents, to desist and refrain from selling, assigning, transferring, and delivering, receiving, collecting, or incumbering, or in any manner disposing of any debts or claims due or owing to him, or any claims, bonds, notes, drafts, or property, whether

in possession, or held in trust for his use and benefit, &c., and that said injunction is yet and still remains in full force and virtue, never having been dissolved, vacated, or discharged.

And your petitioner further showeth unto your Honors on information and belief, that at the time of the recovery of the said several judgments, and at the time of the service of the said people's writ of injunction and subpœna, and at the time of the appointment of the said Receiver as aforesaid, the said Ferdinand Clark had in his possession and under his control, as of his own property, large sums of money and divers evidences of debts, due from and owing from divers persons to him, and that in particular that he did at that time own, possess, and enjoy, in his own right and name, certain evidences of a certain claim against Mexico, on which evidences the said Clark has had awarded to him the said award as stated in the bill of complaint filed in this cause.

And your petitioner further showeth unto your Honors upon information and belief, that said Ferdinand Clark did, at or about the time of the rendition of said several judgments and the service of said injunction, &c., and the appointment of the said Receiver, in fraud of the rights of his said creditors, and in violation of said injunction, fraudulently conceal, assign, and dispose of his property, and did, on or about that time, keep himself concealed in the city of New York, and did then and thenceforth for a long time thereafter remain there concealed, and beyond the personal service of process from said Court of Chancery, and beyond the reach of his said creditors.

And your petitioner further showeth unto your Honors on information and belief, that the said Ferdinand Clark afterwards, to wit, some time in the year 1843, did clandestinely, secretly, and fraudulently abscond from the said City and State of New York, for the purpose of defeating, delaying, and defrauding his said creditors, and to avoid the service of process on him in their behalf.

And, as your petitioner is informed and believes, has never since returned to the said City or State of New York, or within the jurisdiction of her Courts, and still remains absent in or within some State or territory of the United States.

And your petitioner further showeth unto your Honors on information and belief, and so states the fact to be, that during the pendency of the said bankruptcy proceedings, as alleged and referred to in the bill of complaint filed in this cause, and until said Clark obtained his discharge, he remained in and continued a resident of the City and County of New York.

And now, may it please your Honors, your petitioner respectfully submits to the consideration of this Court, and insists that in his said compliance with the provisions of the Act of Congress, and in the fact of his having first filed his bill in this Court, and in the facts

and circumstances going to sustain and support his said bill, he, your petitioner, acquired and obtained a preferential lien upon said award, and that this Court, in equity and good conscience, should grant your petitioner the relief on his said bill sought to be obtained. And your petitioner further respectfully submits unto your Honors, that the said William A. Booth, as such receiver appointed by the Court of Chancery, did, in virtue of his said appointment, acquire a fixed, absolute, and vested lien upon all the property and estate of the said Ferdinand Clark, and that he now has a right to enforce the same in this Court, or elsewhere.

And your petitioner further submits to your Honors, that if said assignee in bankruptcy is entitled to any relief in this Court, that the same ought to be awarded to him, subject to the first acquired lien of your petitioner, and the said William A. Booth, as such receiver, and subject to such equitable terms and conditions as to this honorable Court may seem meet and proper, and which they shall see fit to impose.

And your petitioner further respectfully submits to this honorable Court, that in view of the premises, and because the said complainant herein, as well as your petitioner, is remediless by the strict rules of common law, and that all the remedy of the said judgment creditors was defeated by the fraudulent concealment and absconding of the said Ferdinand Clark, without having been guilty of any negligence, laches, or connivance on their part, that your petitioner is entitled to all the relief sought or prayed for in his said bill filed in his own behalf, or to the same remedy and relief under this his petition in this suit, and that your Honors should, for the purpose of testing the respective and relative rights of the parties to this suit, grant their writ of Injunction, as prayed for in the Bill of Complaint in this cause, and that your petitioner may have such other and further relief in the premises as the nature of the case may require, and as shall be agreeable to equity and good conscience.

DAVID A. HALL.

In the said Circuit Court of the United States for the District of Columbia, now at the same time, Fleming Duncan and John Logan, by David A. Hall, Esq., their solicitor, filed the following petition, to wit:

In the Circuit Court of the United States for the District of Columbia. In Equity.

Petition of Duncan and Logan.

BENJAMIN C. CLARK
ag'nst
FERDINAND CLARK.

To the Honorable the Judges of the Circuit Court of the United States, sitting within the District of Columbia, sitting in Equity. Your petitioners, Fleming Duncan and John Logan, by David A. Hall, their solicitor, respectfully show, that, upon information and belief, some time in the year 1849 or 1850, they were made, constituted, and appointed the assignees of one Joseph McMurray, the person named in the annexed petition of William Chester, and that they became such assignee by virtue of and in pursuance of a certain paper or assignment, duly executed by the said Joseph McMurray, and now in the possession and ready to be produced to this honorable Court as they may direct, whereby, and by which assignment, your petitioners became the assignees and owners of an equal undivided half interest in and to all those two several judgments in favor of Stephen E. Glover and Joseph McMurray, and which are particularly described and set forth in the foregoing petition of the said Wm. W. Chester; and your petitioners further show, upon information and belief, that said Benjamin C. Clark has filed his bill in this honorable Court, as well as on behalf of himself as of all the other creditors of the said Ferdinand Clark, who should come in and contribute to the expenses of that suit, and your petitioners therefore respectfully beg leave to file this, their informal petition, in order that their appearance may be preliminary entered as parties to the above entitled suit, with assent on their part to submit to such terms and conditions as to this honorable Court may seem meet and proper.

And your petitioners also respectfully beg leave to annex this, their petition, to the said petition of the said William W. Chester, and to make the said Chester's petition, to the extent of the statement of facts therein contained, a part of this, their petition, with the right reserved to your petitioners of amending the same hereafter, upon such terms as this Court may order and allow, and your petitioners will ever pray, &c.

DAVID A. HALL,
For Complainants.

DISTRICT OF COLUMBIA,
City of Washington, ss.

J. H. Stewart, of the City of New York, being duly sworn, deposes and says, that he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated, to be on his information and belief, and as to those matters he believes it to be true. Sworn before me this third day of June, 1851.

H. NAYLOR, *J. Peace.*

Exemplification of the judgment of Stephen E. Glover *vs.* Ferdinand Clark, mentioned in the foregoing petition of Wm. W. Chester, at p. of this record.

The People of the State of New York, by the grace of God, free and independent.

To all to whom these presents shall come, or may concern—Greeting.

Know ye, that we having inspected the records and files in our clerk's office, do find a certain judgment record there remaining, which is in the words and figures following, to wit:

SUPREME COURT.

Pleas before the Justices of the Supreme Court of Judicature, of the People of the State of New York, at the City Hall, in the City in the City of New York, of May Term, in the year of our Lord one thousand eight hundred and forty-two.

Witness, SAMUEL NELSON,
Esquire, our Chief Justice.

HATLETT, PAGE, DENIO & SUTHERLAND, *Clerks.*

CITY AND COUNTY OF NEW YORK, *ss.*

Be it remembered, that on the first Monday of May, in this same Term of May, before the Justices of the Supreme Court of Judicature, of the State of New York, at the City Hall, in the City of New York, comes Stephen E. Glover by William Mulock, his attorney, and brings into the said Court before the aforesaid Justices thereof, now here, his certain delaration according to the Revised Statutes, against Ferdinand Clark, which said declaration follows in these words, that is to say:

Judgment of Glover.

CITY AND COUNTY OF NEW YORK, *ss.*

Stephen E. Glover, plaintiff in this suit, by William Mulock, his

attorney, complains of Ferdinand Clark, by filing and serving of a declaration herein, pursuant to the Revised Statutes, and not by capias ad respondum of a plea of trespass on the case. For that whereas the said defendant, on the thirtieth day of April, in the year of our Lord one thousand eight hundred and forty-two, at the City of New York, in the County of New York, and within the jurisdiction of this Court, was indebted to the said plaintiff, in the sum of twenty thousand dollars, lawful money of the United States of America, for the work and labor, care and diligence of the said plaintiff, by the said plaintiff and his servants before that time, done, performed and bestowed, in and about the business of the said defendant, and for the said defendant, and at the special instance and request of the said defendant, and also for divers materials and other necessary things, by the said plaintiff found, provided, used, and applied in and about that work, and at the special instance and request of the said defendant. And being so indebted to the said plaintiff, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, in consideration that the said plaintiff had before that time, at the like special instance and request of the said defendant, done, performed, and bestowed divers other work and labor, care and diligence, in and about the business of the said defendant, and for the said defendant, and had before that time found, provided, used, and applied divers other materials and other necessary things, in and about that business, the said defendant then and there undertook and faithfully promised the said plaintiff, that the said defendant would well and truly pay to the said plaintiff, so much money as the said plaintiff reasonably deserved to have, of the said defendant for the same, when the said defendant should be thereunto afterwards requested; and the said plaintiff avers, that the said plaintiff therefor reasonably deserves to have of the said defendant for the same, the further sum of twenty thousand dollars of like lawful money as aforesaid, to wit, at the place aforesaid, whereof the said defendant afterwards, to wit, on the same day and year and at the place aforesaid had notice. And whereas, also, the said defendant afterwards, to wit, on the same day and year and at the place aforesaid, was indebted to the said plaintiff in the sum of twenty thousand dollars, of like lawful money as aforesaid, for divers goods, wares, and merchandise by the said plaintiff before that time sold and delivered to the said defendant, and at the like request of said defendant, and in the further sum of twenty thousand dollars, of like lawful money as aforesaid, for so much money before that time lent and advanced by

the said plaintiff to the said defendant, and at the like request of the said defendant, and for other money by the said plaintiff, before that time paid, laid out, and expended for the said defendant, and at the like request of the said defendant, and for other money by the said defendant before that time had received to and for the use of the said plaintiff, and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff, the said several sums of money in this count mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the same defendant afterwards, to wit, on the same day and year and at the place aforesaid, accounted together with the said plaintiff, of and concerning divers other sums of money, before that time due and owing from the said defendant to the said plaintiff, and then and there being in arrear and unpaid, and unpaid, and upon such accounting, the said defendant then and there was found to be in arrear and indebted to the said plaintiff, in the further sum of twenty thousand dollars, of like lawful money as aforesaid, and being so found in arrear and indebted to the said plaintiff, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested. Nevertheless, the said defendant (although often requested, &c.) hath not yet paid the several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiff, but to pay the same or any part thereof to the said plaintiff, the said defendant hath hitherto altogether refused and still doth refuse, to the damage of the said plaintiff of twenty-five thousand dollars, and therefore the said plaintiff brings suit, &c.

No. HAVANNA, Mar. 21, 1841.

Exch. $3500.

Seventy days after sight of this third of exchange (first, second, and fourth unpaid), pay to the order of Russell E. Glover, Esqr. Thirty-five hundred dollars, value received, and charge the same to account of

Yr. ob't servant,

To Messrs. CLARK & Co., FERDINAND CLARK.

New York.

Endorsed RUSSELL E. GLOVER.

Accepted, April 6, 1841; payable at Commercial Bank.

CLARK & CO.

By JNO. B. KITCHING, Atty.

HAVANNA, May 15, 1841.

No. 503.
Exch. 3225 & 7 rs.

Ninety days after sight of this first of exchange (second, third, and fourth unpaid), pay to the order of Russell E. Glover, Esqr., thirty-two hundred and twenty-five dollars, 7 rials, value received and charge the same to account of

Yr. ob't servant,
FERDINAND CLARK.

To Messrs. CLARK & Co.,
No. 46 Water St.

Endorsed RUSSELL E. GLOVER.

May 29, 1841. CLARK & CO.

HAVANNA, May 15, 1841.

No. 511.
Exch. $2000.

Ninety days after sight of this fourth of exchange (first, second, and third unpaid), pay to the order of Messrs. Clark & Co., two thousand dollars, payable in New York, value received, and charge the same to account of

Yr. obd't servant,
FERDINAND CLARK.

To MOSES WHITNEY ESQR.,
Boston.

Endorsed CLARK & CO.,
RUSSELL E. GLOVER.

Accepted 4th June, 1841, payable at City Bank.
MOSES WHITNEY.

SIR:—The foregoing are copies of the bills of exchange upon which this suit is brought, and which are the only claims upon which the plaintiff relies to recover against you herein, and which will be given in evidence on the trial of this cause, under the money counts, according to the act, &c., in the foregoing declaration contained, and on such trial or upon an assessment of damages upon such bills, no greater verdict will be taken nor damages assessed beyond the amount of said demands, with the lawful interest, &c., thereon.

And it is hereby suggested, and the court is informed, that true copies of the foregoing bills of exchange have been served, with a copy of the declaration herein, upon the said defendant personally, and which gives evidence to the court now here of such service, according to the act in such case made and provided.

And the said Ferdinand Clark, defendant in this suit, by Goodhue & Bastell his attorneys, comes and defends the wrong and injury, when, &c., and says that he did not undertake and promise, in manner and form, as the said plaintiff in this suit hath above hereof declared against the said defendant, and of this he puts himself upon the country, and the said plaintiff likewise, &c.

Take notice, that the said defendant, on the trial of the above cause, will insist upon and give in evidence under the general issue above pleaded, that the said plaintiff at the time of the commencement of the action aforesaid, against the said defendant, was and still is indebted unto him in the sum of twenty-five thousand dollars, lawful money of the United States of America, for divers goods, wares and merchandise, before that time sold and delivered by the said defendant to the said plaintiff, and at the special instance and request of the said plaintiff.

And in the further sum of twenty-five thousand dollars of the like lawful money for the work and labor, care and diligence of the said defendant and his servants, before that time done, performed and bestowed in and about the business of the said plaintiff, and for the said plaintiff and at his like request.

And in the further sum of twenty-five thousand dollars of like lawful money, for money before that time lent and advanced by the said defendant to the said plaintiff, and at the like request of the said plaintiff, and for other money by the said defendant before that time paid, laid out and expended for the said plaintiff, and at the like request of the said plaintiff; and for other money by the said plaintiff before that time had and received, to and for the use of the said defendant; and also that the said plaintiff, before the commencement of this action, accounted together with the said defendant concerning the said demand of the said plaintiff against the said defendant, and also of and concerning divers other sums of money and accounts between the said plaintiff and the said defendant, and upon which accounting the said plaintiff was found to be in arrear and indebted to the said defendant in the further sum of twenty-five thousand dollars of like lawful money, which the said plaintiff undertook and then and there faithfully promised the said defendant well and truly to pay unto the said defendant, when the said plaintiff should be thereunto afterwards requested.

Which said several sums of money, or so much as will be sufficient for that purpose, the said defendant will set off against the demand of the said plaintiff, to be proved at the trial, and have the balance certified in his favor.

And hereupon the process thereof is continued between the parties aforesaid, of the plea aforesaid in this same court, before the justices thereof, until the first Monday of July, of the term of July, in the year of our Lord one thousand eight hundred and forty-two, at the Academy in the town of Utica, and the same day is given to the parties aforesaid at the same place.

At which said last-mentioned day, before the said Justices of the place last aforesaid, came the parties aforesaid by their respective attorneys aforesaid, and hereupon to try the aforesaid issue above-joined between the parties aforesaid, let a jury thereon come at the

next term of this Court, to be holden at the court-house in the City of Rochester (according, &c.), on the third Monday of October next, each of whom, &c., who neither, &c., to recognise, &c., because as well, &c., the same day is given to the parties aforesaid there, &c. (unless a jury shall thereupon sooner come), at a Circuit Court appointed to be holden in and for the City and County of New York, at the City Hall in the said City, according, &c., by the Honorable William Kent, one of the Judges, according, &c., on the fourth Monday of September next.

Afterwards, that is to say, on the day and at the place last above contained, before the Honorable William Kent, one of the Circuit Judges, &c., according, &c., comes the said Stephen E. Glover, by his attorney aforesaid, and the said jurors of the jury whereof mention is also above made being summoned, also come, and the said defendant being solemnly demanded, comes not, but makes default; therefore, let the said jury be taken against him for his default.

And the said jurors, who to speak the truth of the matters above contained, being chosen, tried, and sworn upon their oaths, say, that the said defendant did undertake and promise, in manner and form as the said plaintiff hath above thereof declared against the said defendant, and they assess the damages of the said plaintiff on occasion of the premises, over and above his costs and charges in this behalf expended, to nine thousand four hundred and forty-three dollars and ninety-seven cents, and for those costs and charges to six cents.

Therefore it is considered by the said Court, before the aforesaid Justices thereof now here, that the said plaintiff doth recover against the said defendant his damages aforesaid, assessed to nine thousand four hundred and forty-three dollars and ninety-seven cents, and also sixty dollars and fifty cents, for his said costs and charges by the said Court, before the aforesaid Justices thereof now here adjudged, of increase to the said plaintiff, and with his assent, which said damages, costs, and charges, in the whole amount to nine thousand five hundred and four dollars and fifty-three cents; and the said defendant in mercy, &c.

Judgment signed this seventh day of October, one thousand eight hundred and forty-two. W. N. HALLETT.

Endorsed, Supreme Court; Stephen E. Glover *vs.* Ferdinand Clark.

Judgment record.

V. MULOCK,
Att'y.

Filed Oct. 7, 1842, at 15 m. after 2, P. M. Docketted.

All which we have caused by these presents to be exemplified, and the seal of our said Supreme Court to be hereto affixed.

[SEAL.] Witness, James G. King, Jr., Justice of the City of New

York, the fourth day of May, A.D. 1851, and in the the seventy-fifth year of our Independence.

GEO. W. RIBLET,
Clerk.

I, James G. King, Jr., one of the Justices of the Supreme Court of the State of New York, at the City of New York, do certify, that George W. Riblett, whose name is subscribed to the preceding exemplification, is Clerk of the City and County of New York, and Clerk of the Supreme Court of said City and County, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify, that the seal hereunto affixed is the proper seal of said Supreme Court, and that the attestation thereof is in due form of law.

Given under my hand at the City Hall, in the City of New York, this 10th day of May, A.D. 1851.

JAMES G. KING, JR.,
One of the Justices of the Supreme Court of the State of New York.

And now, at the same time, B. C. Clark, by his Solicitor aforesaid, files in Court here the following notice to the Secretary of the Treasury of the United States, to wit:

To the Secretary of the Treasury of the United States.

SIR:—

An award having been made by the Board of Mexican Commissioners, under the Act of March 3d, 1849, in favor of Mr. Ferdinand Clark, for the sum of I hereby notify you that it is my intention to contest the payment of the same to the said Ferdinand Clark, as awarded, by suit in the Circuit Court of the United States for the District of Columbia, as provided in said act, and request that payment of the same to him may be stopped, and have filed with the District Attorney of the United States for the District of Massachusetts, the bond required by said act, approved by him, as appears by his certificate hereto annexed (copied at p. 19).

B. C. CLARK.

Boston, May 10th, 1851.

Continued.

Thereupon the said cause, with the consent of the parties by their respective solicitors, and by order of the said Court, was regularly continued at Rules until the first Monday of October next. And now, to wit, on the first Monday in October, in the year eighteen

hundred and fifty-one, came into Court here as well the said complainants by their solicitors, as the said defendant by his solicitor aforesaid, and the said defendant, Ferdinand Clark, by his solicitor, files in Court here the following answer, to wit:

Answer F. Clark to Hackett.

In Chancery.

The answer of Ferdinand A. Clark, otherwise called Ferdinand Clark, defendant, to the bill of complaint of Wm. H. Y. Hackett, complainant against this defendant.

This defendant, now and at all times saving and reserving to himself all advantage and benefit of exception to the errors and imperfections contained in the said bill of complaint, for answer thereto, or so much thereof as he is advised it is material for him to make answer unto; he answering, admits, that said complainant, on the 19th day of May, in the current year 1851, by an order passed by the Honorable the District Court of the United States for the District of New Hampshire, in the matter of this defendant in bankruptcy, in said District of New Hampshire, was appointed the assignee of the estate of this defendant in place of one John Palmer, deceased; and this defendant says that he is informed and believes, and so states the fact to be, that the said assignee was appointed by said District Court of New Hampshire, upon a petition filed in said Court, on the 19th day of May, 1851, by Charles G. Nazro, for himself, and one Benjamin C. Clark, alleging, among other things, that the said John Palmer, the late assignee of this defendant, deceased without disposing of all the assets, or collecting all the dues belonging to the estate of said bankrupt, and that recent occurrences have given value to some of the uncollected and unsold claims belonging to the estate of this defendant, the said bankrupt, rendering it necessary to appoint an assignee to complete the business which said John Palmer, as assignee, left unfinished; all which allegations this defendant says are untrue, and without any foundation in fact.

And this defendant says that the appointment of said complainant assignee as aforesaid was made without any publication or notice of the petition of said Nazro and Clark for the appointment of the assignee as aforesaid, and that this defendant had no notice, and that neither this defendant nor any party having an interest opposed to the appointment of this complainant as assignee as aforesaid, had an opportunity to be heard, or make any objections in the matter of said appointment.

And this defendant denies the validity of said appointment, and that this complainant has acquired any rights or powers by virtue thereof. And this defendant further answering admits that in the

month of January, in the year 1843, he filed in the District Court of the United States, for the District of New Hampshire, his petition for the benefit of the Bankrupt Act, and afterwards, by a decree of said Court, duly passed on the 22d day of March, 1843, was duly and regularly declared a bankrupt, and that by force of this decree, and by mere operation of law from the time of such decree, all the property and rights of property, of every name and nature, and whether, real, personal, or mixed, except as in and by law was excepted, of this defendant, was divested out of him this defendant, and by force of same decree, vested in the assignee appointed by said Court.

And this defendant admits that by a decree of said Court, passed on the same day and year last aforesaid, the said John Palmer was appointed assignee of this defendant, and assumed and took upon himself the duties of the said office, and that he is since dead; but this defendant denies that the proceedings in bankruptcy in the matter of this defendant have not been finally consummated, all which hereafter he will make more fully appear.

And this defendant is informed and believes that sufficient assets were not collected by said Palmer from said estate to pay his own fees and expenses, and that nothing remained in his hands for distribution among the creditors.

And this defendant admits that he returned in his proceedings in bankruptcy a list, purporting to show his creditors' names, &c., but whether the debts there owing by this defendant exceed the amount of the award hereinafter mentioned, he is not informed.

And this defendant admits that prior to and at the date of his said bankruptcy this defendant had among his assets a certain claim against the Republic of Mexico, and that this is the same identical claim in satisfaction of which an award has been lately made by the commissioners appointed in pursuance of the treaty of Guadaloupe Hidalgo, for the sum of $86,786 29.

And this defendant admits that the said claim by him *in property* annexed to his petition to be declared bankrupt; but he expressly and absolutely denies that said claim was not described in any manner to make the same available to his creditors. And he expressly and absolutely denies that such evidences and information, as would have enabled said assignee to recover said claim, were fraudulently withheld by this defendant, and denies that his assets and effects generally were so described in his schedules, that the said assignee was in ignorance of their true value.

And this defendant answering says that his claim against the Mexican Republic was expressly and distinctly mentioned in the schedules of his assets attached to his petition to be declared a bankrupt, a copy whereof he prays leave to exhibit, marked ( ), and as fully and particularly as was demanded by the rules and practice of

said District Court. Vide pp. 60, 62. And this defendant says that said claim is mentioned in said schedule as subject to a mortgage, and he says that such a mortgage did in fact exist, that he did not know the amount thereof, but verily believed it to be more than the value of the claim. And this defendant says that no value was set to said claim in said schedule, because he verily believed, and had good reason to believe at that time, that said claim was wholly without value.

And this defendant says that he communicated to said John Palmer the situation of all the claims and demands mentioned in his schedules, and that all the evidences and papers in support of said claim against the Republic of Mexico, were out of his possession, and some time in the year 1842, or previous to that time, all said evidences and papers had been publicly filed before the commissioners appointed under the convention of April 11, 1839, for the adjustment of claims of citizens of the United States, which commissioners, before this defendant applied, as aforesaid, for the benefit of the bankrupt act, had finally closed their sittings and business, and been finally discharged of their commission, and all proceedings under the said convention had been finally closed, and the said claim had not been allowed, and this defendant verily believed that any further interposition by his own government, through convention, treaty, or otherwise, for the recovery thereof was wholly hopeless; and at the time of the commencement of said proceedings in bankruptcy, all said papers and evidences were in the public archives of the government of the United States and, there remained until the time of said award.

And this defendant, for the purpose of setting forth the proceedings in bankruptcy in his behalf more particularly than is set forth in the said complainant's bill, says that his petition to be declared bankrupt was filed in the clerk's office of the District Court of New Hampshire, on the 28th day of January, 1843, that on the 22d day of March, 1843, after due notice, he was by said Court declared and decreed a bankrupt, pursuant to the Act of Congress, entitled An Act to establish a uniform system of Bankruptcy throughout the United States, passed Aug. 19, 1841; that on the twenty-second day of March, 1843, by a decree of said Court, John Palmer, of South Hampton, in said district, was duly appointed assignee of the estate of this defendant, and gave his bond in compliance with the order of Court; that on the 14th day of December, 1844, said assignee filed in the clerk's office of said Court his return and account, in which he charged himself with and acknowledged to have received the amount of property mentioned in the schedule B.

And this defendant says, that on the 17th day of December, 1844, it was ordered and decreed by said District Court of New Hampshire, that the said defendant was fully discharged of and from all his

debts owing by him in his private right and capacity, at the time of the presentation of his petition to be declared a bankrupt.

And this defendant saith, that notice of all the proceedings in his matter in bankruptcy, was published in the leading papers in New Hampshire, and this defendant is informed and believes, and so states the fact to be, that notice of the pendency of the proceedings in bankruptcy in New Hampshire, was personally served upon each of the creditors of every bankrupt, where such creditors resided without the State of New Hampshire, and he believes that by means of notice in the newspapers and personal notice, all his creditors were fully aware of the pendency of the proceedings in bankruptcy in his behalf in the District Court of New Hampshire.

And this defendant says, that notwithstanding all the creditors of said defendant had notice of the pendency of the proceedings in bankruptcy, as aforesaid, no creditor ever filed in the District Court aforesaid, any proof of debt in the matter of this defendant, or any objections to the proceedings in bankruptcy in his behalf, or to the doings of said assignee until after the award aforesaid was made. And this defendant insists, that if any loss or injury has accrued to his creditors in consequence of the proceedings aforesaid in bankruptcy, or on account of the management of his assets in bankruptcy by said assignee, it has been wholly through the laches and negligence of said creditors.

And this defendant further answering says, that on the 14th day of March, 1845, the said John Palmer, assignee aforesaid, filed his petition in said District Court of New Hampshire praying said Court to pass an order and decree, that all the estate and property of which this defendant was seised at the time of his bankruptcy, should be sold, transferred, and assigned, and thereupon on the 14th day of March, A.D., 1845, it was ordered by said Court that all the estate, property, and demands of said bankrupt, as specified in the prayer of said petition, and the schedules thereto annexed, should be sold at public auction within six months from the date of said order, and at such intermediate times, and at such places as in the opinion of the assignee would best promote the interest of all concerned, after reasonable notice of such sale should have been given, either by posting up or inserting the same in some newspaper ten days before the sale.

And this defendant says that the said John Palmer, assignee as aforesaid, in pursuance of said decree, and after having complied with all the orders of the said District Court in the premises, and having given notice according to the order of said Court, did, on the ninth day of April, A.D., 1845, sell at public auction to one R. M. Clark, of Boston, all the estate, property, and demands of said bankrupt, and mentioned in the schedules attached to the petition of the said Ferdinand Clark, this defendant, to be declared bankrupt, and

in the petition for sale and schedules thereto annexed of said assignee, the said R. M. Clark being the highest bidder therefor, and this defendant saith, that the claim against the Mexican Republic was specifically mentioned in said schedule, and that all the interest and title thereto, by virtue of said sale, passed from said assignee to said R. M. Clark.

And this defendant expressly says that no artifice or fraud was resorted to by him to depress the value of said demands and claims, and in particular said claim against the Republic of Mexico, neither does he know or believe that any artifice, collusion, or fraud was used by any person whatsoever in relation to said sale.

And this defendant saith, that the said John Palmer, assignee as aforesaid, on the ninth day of April, 1845, aforesaid, executed and delivered to the said R. M. Clark a formal bill of sale, sealed and acknowledged, of all said estate, property, and demands, specifically mentioning, in the schedule attached thereto, among other demands the claim against the Mexican Republic aforesaid, a copy whereof, marked A., together with a copy of all the proceedings in his case in bankruptcy, this defendant exhibits, marked B., and prays to make proof of the original bill of sale aforesaid, said exhibits being filed in the answer of this defendant to the bill of Benjamin C. Clark (for the said exhibit A., see page 169, and for said exhibit B., see Proceedings in Bankruptcy, on page 58, &c.)

And this defendant saith, that on the tenth day of April, A.D. 1845, this defendant purchased, for a valuable consideration of said R. M. Clarke, all the estate, property, and demands conveyed by said assignee to said R. M. Clark, and among them said claim against the Republic of Mexico; and that, on said tenth day of April, A.D. 1845, the said R. M. Clarke conveyed to this defendant by a formal and valid bill of sale, all the right title, and interest which the said R. M. Clark had in the estate, property, and demands conveyed to said R. M. Clark by the said assignee, a copy of which bill of sale this defendant exhibits, marked C. (copied in p. 171), and prays to make proof of the original: said exhibit being filed with the answer of this defendant in the Bill of Benjamin C. Clark.

And this defendant says, that by virtue of this sale and conveyance, all the right, title, and interest in said claim against the Republic of Mexico became vested in this defendant, and that he thereby acquired a right to prosecute said claim in his own behalf, and to appropriate to his own use the whole amount of the award founded on said claim.

And this defendant says, that at the time of sale of the said property, estate, claims, and demands by said assignee, including the said claim against the Republic of Mexico, the same were reported to be, and, in fact, were nearly, if not wholly, without

value; and, as no debts were proved by his creditors against the estate of this defendant in Bankruptcy, he has reason to believe, and does believe, that said demands were considered by his creditors wholly without value; and he says that circumstances have arisen since the sale by the said assignee and the purchase by this defendant, which have given value to said claim against the Republic of Mexico; and this defendant saith, that even since the late treaty with Mexico, providing for payment of the claims of American citizens against Mexico, he at one time had determined to abandon said claim.

And this defendant says, that he is informed, and believes, and so states the fact to be that at the time of the sale of said claim by the assignee as aforesaid, and for a long time previous thereto, the bonds of the Republic of Mexico for the amounts actually awarded by the commissioners appointed under the convention of April 11th, 1839, for the adjustment of claims of citizens of the United States upon the government of the Republic of Mexico were not worth more than six per cent. upon their nominal value, and were actually sold for a large amount, at the rate of six per cent. upon the nominal value of said bonds.

And this defendant says, that he prosecuted said claim wholly at his own expense and risk; that he expended much time and large amounts of money to procure evidence and to employ agents to aid in the prosecution of said claim.

And this defendant humbly submits and insists that as the *bonâ fide* purchaser of said claim, he is entitled to the sole benefit of said award, and that if said claim at the time that this defendant entered into Bankruptcy, and at the time of the sale aforesaid possessed great value, which this defendant denies, the creditors of this defendant were guilty of laches and negligence in not looking after said claim when it was placed in the hands of the assignee aforesaid for their benefit.

And this defendant further says, that the said complainant has not presented a notice to the Secretary of the Treasury of his intention to contest the payment of the award aforesaid, or filed his bond for the payment of costs and damages, according to the provisions of the 8th section of an Act, entitled, "An Act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," and that, therefore, the said complainant is not entitled to any relief from this honorable Court.

And this defendant denies all combination and confederacy charged against him in said bill of complaint, without that any other matter or thing in the said bill of complaint contained, and not herein and hereby well and sufficiently answered unto, confessed

and avoided, traversed, or denied, is true to his knowledge or belief: all which matters and things this defendant is ready to aver, prove, and maintain, as this honorable Court shall direct, and prays to be hence dismissed with his costs, damages, and charges in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts.

On this second day of October, 1851, personally appears F. N. Clark, and makes oath that the facts stated in the above answer, as of his own knowledge, are true, and as far as stated on affirmation and belief, he believes them to be true, before me,

GEO. S. HILLARD,
Commissioner of the Circuit Court of the United States for Massachusetts District.

Exhibit A., in the foregoing Answer. Bill of Sale from J. Palmer, Assignee, to R. M. Clark.

B. Sale. Palmer to Clark.

Exeter, New Hampshire, Ap'l 9, 1845.

I, John Palmer, of South Hampton, in the County of Rockingham, and State of New Hampshire, Assignee of Ferdinand Clark, of said Exeter, in bankruptcy, in the United States District Court, New Hampshire District, hereby sell, grant, bargain, and convey by authority of a license from said Court, dated March 14, 1845, authorizing me to sell at public auction, within six months, from the date of said license, the demands set forth in the schedule marked A. or B. (copied in "Proceedings in Bankruptcy") annexed to the petition, and having given reasonable notice of said sale by posting up advertisements of said sale at public and conspicuous places, I have, this 9th day of April, at 12 o'clock at noon, set up together all the demands set forth in schedule A. or B., No. 1663, and attached to this conveyance, and Miss R. M. Clark, of Boston, she being the highest bidder therefor, that is, she offered the sum of two dollars for the same, and no person appearing to offer any more, the same was thereupon struck off to said R. M. Clark for the sum aforesaid. In pursuance and by authority of said license, said demands, effects, claims, &c., of said Ferdinand Clark, as set forth in the annexed schedule A. or B., for the consideration aforesaid, I do hereby convey, transfer, and assign, and make over unto said R. M. Clark, for her sole use and benefit, to her and her heirs, executors, administrators, and assigns.

In witness whereof, I have hereunto set my hand and seal, this ninth day of April, 1845.

Signed, sealed, and delivered in presence of JOHN KIMBALL. JOHN PALMER. [L. S.]

ROCKINGHAM, *ss.*

Ap'l 9th, 1845.

Personally appearing, the said John Palmer acknowledged the aforegoing instrument by him signed, as his voluntary act and deed, before me.

JOHN KIMBALL, *Jus. Peace.*

I hereby certify that the foregoing Bill of Sale and schedules thereto annexed, is a true copy from the original.

ISAAC P. CLARK.

Boston, October 3d, 1851.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.

Boston, October 3d, 1851, sworn to by the said Isaac P. Clark, before me,

ELISHA BASSETT,
Justice of the Peace and Assistant Clerk U. S. Dis't Court.

Exhibit C.

Exhibit C.

Bill of Sale, R. M. Clarke to F. Clark, of Effects in Bankruptcy.

Roxbury, Norfolk County,
Massachusetts, Ap'l 10, 1845.

I, the undersigned, Miss Roxana M. Clark, of Boston, Suffolk County, Massachusetts, do hereby convey, transfer, and make over to Mr. Ferdinand Clark, for his use and benefit, to him and his heirs, executors, administrators, and assigns, all my right and title to certain effects, claims, demands, &c., included in schedule A. or B., attached to the Bill of Sale of John Palmer, Esquire, of Exeter, Rockingham County, New Hampshire, dated April 9th, 1845, being the former property of the said Ferdinand Clark, surrendered by him up to his creditors in bankruptcy, January the 28th, 1843, as appeared by his proceedings in the United States Bankrupt Court, New Hampshire District. And I, the said Roxana M. Clarke, do acknowledge to have received from the said Ferdinand Clark, a good and valuable consideration for the said demands, effects, claims, &c., included in the schedule A. or B.

attached to the bill of sale of the same, as made to me by the said John Palmer, on the ninth day of April, one thousand eight hundred and forty-five. And I, the said Roxanna M. Clark, having sold, granted, bargained, and conveyed unto the said Ferdinand Clark, of Exeter, New Hampshire, all her right and title to him and his heirs, executors, administrators, and assigns, to the said effects, demands, claims, &c., for his and his heirs, executors, administrators, and assigns sole use and benefit, for a good and valuable consideration.

In witness whereof, I have hereunto set my hand and seal this tenth day of April, 1845.

Witness, ROXANA M. CLARK.
MARY F. P. WHITING,
ROXANA C. WHITING.

I hereby certify that the foregoing is a true copy from the original.

Boston, October 3d, 1851. ISAAC P. CLARK.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, sc.

Boston, October 3d, 1851. Sworn to by the said Isaac P. Clark, before me,

ELISHA BASSETT, *Justice of the Peace, and Assistant Clerk of the U. S. Dist. Court.*

And now, at the same time, said Ferdinand Clark, by his solicitor aforesaid, comes into Court here and files the following, his answer to the petition hereinbefore set forth, of William C. Pickersgill, to wit:

In the Circuit Court of the United States, for the District of Columbia. In Equity.

Answer of F. Clark to Pickersgill.

The Answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant, to the petition of Wm. C. Pickersgill, complainant against the defendant.

This defendant, now and at all times saving and reserving to himself all advantage and benefit of exception to the errors and imperfections contained in the said petition, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, he answering, admits that one Benjamin C. Clark has filed his bill of complaint in this honorable Court against this defendant, and this defendant admits that the said Benjamin C. Clark, in his bill of

complaint made certain allegations mentioned and described in the petition of this complainant.

And this defendant, further answering, admits that subsequently to the 29th day of June, 1842, he presented his petition to the District Court of the United States, for the District of New Hampshire, sitting at Portsmouth, to be declared bankrupt, and that said petition was presented on the 28th day of January, 1843, and that such proceedings were had thereon, in said last-named Court, that on the 17th day of December, 1844, this defendant was discharged and released by the final decree of said last-named Court, and this defendant says that said last-named Court has complete jurisdiction in the premises, and that said decree of discharge was properly made.

And this defendant further answering, admits that under said proceedings in bankruptcy, an official assignee of the property and effects of this defendant was appointed, and that his name was John Palmer, and that said Palmer has since died, and this defendant admits that one William H. Y. Hackett has recently been appointed assignee in the place and stead of said John Palmer, but this defendant denies the legality of the appointment of said Hackett, and that he has rightfully any power or authority by virtue of said appointment.

And this defendant admits that an award has been made in his favor by the Board of Commissioners, appointed and acting under the provisions of the treaty between the United States and Mexico, commonly called the treaty of Guadaloupe Hidalgo, and this defendant says that the amount of said award was eighty-six thousand seven hundred and eighty-six $\frac{29}{100}$ dollars. And this defendant further answering, admits that the claim on which said award was based, was the property of this defendant before the year one thousand eight hundred and forty-two, and before the alleged time of the rendition of the judgments stated in the complainant's petition, to have been recovered against this defendant by this complainant.

And this defendant admits that some time in the year one thousand eight hundred and forty-two, the said complainant, William C. Pickersgill, in the Superior Court of the City and County of New York, recovered two judgments against this defendant, but as to the amount of said judgments, this defendant is not informed, save by the complainant's petition. And this defendant further answering, saith that this defendant is not informed but by the complainant's petition, whether the proceedings founded upon, and growing out of said judgments and particularly set forth in the said complainant's petition, were had as alleged in said petition, and this defendant prays that if material, said complainant may be compelled to make proof thereof.

And this defendant, for the purpose of setting forth the proceedings in bankruptcy in behalf of this defendant, referred to in said

complainant's petition, further answering, saith that this defendant, on the 28th day of January, 1843, being at that time a resident of New Hampshire, filed in the Clerk's office of the District Court of New Hampshire, his petition to be declared bankrupt; that on the 22d day of March, 1843, after due notice, this defendant was declared and decreed a bankrupt, pursuant to the Act of Congress, entitled, "An Act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841; that annexed to the petition of this defendant to be declared bankrupt, was a schedule marked (B.) which schedule contained an accurate inventory of the property, rights, and credits of this defendant at the time of filing said petition, of every name, kind, and description; that among other things in said schedule, there was mentioned as belonging to this defendant, and as particularly mentioned and described as was as was required by the rules and practice of said District Court, a claim against the Mexican Republic, which claim this defendant says is the identical claim upon which the award mentioned in said complainant's petition was founded. And this deponent says that on the 22d day of March, 1843, by a decree of said District Court of New Hampshire, John Palmer, of South Hampton, in said district, was duly appointed assignee of the estate of this defendant, and gave his bond, in compliance with the order of said Court. And this defendant says that by force of said decree of Bankruptcy, and the appointment of said assignee, and by operation of law, all the property and rights of property of the defendant, of every name and nature, amongst others, said claim against the Republic of Mexico, became vested in said assignee.

And this defendant says, that on the 17th day of December, 1844, after due notice, it was ordered and decreed by said District Court, that this defendant was fully discharged of and from all his debts, owing by him in his private right and capacity, at the time of the presentation of the petition of this defendant to be declared a bankrupt. And this defendant says, that he was thereby discharged from the judgments recovered by the said complainant against this defendant, in the State of New York, mentioned in said complainant's petition.

And this defendant says, that notice of all the proceedings in the matter of this defendant in bankruptcy, was published in the leading papers in New Hampshire, and he is informed and believes, and so states the fact to be, that notice of the pendency of proceedings in bankruptcy, in the District Court of New Hampshire, was personally served upon each of the creditors of every bankrupt, where such creditors resided out of the State of New Hampshire. And this defendant says, that the name and residence of this complainant was placed on the list of creditors, attached to the petition of this defendant to be declared bankrupt, and he believes that the said complain-

ant had notice of the pendency of the proceedings in bankruptcy in his behalf, in the District of New Hampshire.

And this defendant says, that notwithstanding all the creditors of this defendant had notice of the proceedings in bankruptcy aforesaid, neither the said complainant nor any other creditor ever filed in the District Court aforesaid, any proof of debt in the matter of this defendant in bankruptcy, or any objections to the proceedings in bankruptcy in behalf of this defendant, or to the doings of the assignee aforesaid, until after the award aforesaid was made: and this defendant insists that if any loss or injury has accrued to the said complainant in consequence of the proceedings in bankruptcy aforesaid, or on account of the management of the assets in bankruptcy of this defendant by said assignee, it has been wholly through the laches and negligence of said complainant.

And this defendant further answering says, that on the 14th day of March, 1845, the said John Palmer, assignee as aforesaid, filed his petition in said District Court of New Hampshire, praying said Court to pass an order and decree that all the estate and property of which this defendant was seized at the time of his bankruptcy, should be sold, transferred, and assigned, and thereupon on the 14th day of March, 1845, it was ordered by said Court, that all the estate, property, and demands of said bankrupt, as specified in the prayer of said petition, and in the schedule thereto annexed, should be sold at public auction within six months from the date of said order, and at such intermediate times, and at such places as in the opinion of the assignee would best promote the interest of all concerned, after reasonable notice of such sale should have been given, either by posting up or inserting the same in some newspaper, ten days before the sale.

And this defendant says that the said John Palmer, assignee as aforesaid, in pursuance of said decree and after having complied with all the orders of said District Court in the premises, and having given notice according to the order of said court, did, on the 9th day of April, A.D. 1845, sell at public auction, to one R. M. Clark, of Boston, all the estate, property and demands of the said bankrupt this defendant, and mentioned in the schedules attached to the petition of this defendant to be declared bankrupt, and in the petition for sale and schedules thereto annexed of said assignee, the said R. M. Clark being the highest bidder therefor, and this defendant saith that the aforesaid claim against the Mexican Republic, was specifically mentioned in said schedules and was included in said sale, and that all the interest and title thereto by virtue of said sale, passed from said assignee to said R. M. Clark, and that by force of said sale under the decree and proceedings aforesaid, the said claim against the Republic of Mexico passed to said R. M. Clark, discharged of all or any lien whatsoever which might have existed thereon.

And this defendant saith that the said John Palmer, assignee as aforesaid, on the ninth day of April, A.D. 1845, aforesaid, executed and delivered to the said R. M. Clark a formal bill of sale, sealed and acknowledged, conveying, transferring and assigning all said estate, property and demands, specifically mentioning in the schedule attached thereto, among other demands, the claim against the Mexican Republic aforesaid, a copy whereof this defendant exhibits, marked A (copied in p.), and prays to make proof of the original, and this defendant also exhibits an exemplified copy of all the proceedings in bankruptcy aforesaid, marked B (copied in p.), said exhibits being filed with the Answer of this defendant to the bill of Benjamin C. Clark against this defendant.

And this defendant expressly says that no artifice or fraud was resorted to by this defendant to depress the value of said demands and claims, and in particular said claim against the Republic of Mexico, neither does he know or believe that any artifice, collusion or fraud was used by any person whatsoever in relation to said sale, and he says that at the time of the sale of said estate, property, claims and demands, including the said claim against the Republic of Mexico, the same were reputed to be nearly, if not wholly, without value, and he believes that said claims were considered by said complainant as without value, and he says that circumstances wholly unforeseen at the time of said sale and since have arisen, which have given value to said claim against the Republic of Mexico.

And this defendant says, that some time in the year 1842, he presented this identical claim before the commissioners appointed under "the Convention of April 11, 1839, for the adjustment of claims of Citizens of the United States upon the government of the Mexican Republic," which commissioners, before this defendant applied as aforesaid, for the benefit of the bankrupt act, closed their sittings and business, and were discharged of their commission without allowing said claim, and this defendant verily believed and thinks that said complainant believed that any further interposition by his own government by convention or treaty or otherwise, for the recovery of said claim, was wholly hopeless. And this defendant says that he is informed and believes, and so states the fact to be, that at the time of the sale of said claim by the assignee as aforesaid, and for a long time previous thereto, the bonds of the Republic of Mexico for the amounts actually awarded by the commissioners last named, were not worth more than six per cent., and were sold for a large amount at the rate of six per cent. on the nominal value of said bonds.

And this defendant says that, on the 10th day of April, 1845, he purchased, for a valuable consideration, of said R. M. Clark, all the estate, property and demands conveyed by the said assignee to the said R. M. Clark, and among them said claim against the Republic of Mexico, and that on the said 10th day of April, A.D.

1845, the said R. M. Clark, conveyed to this defendant, by a formal and valid bill of sale, all the right, title and interest of the said R. M. Clark had in the estate, property and demands conveyed to the said R. M. Clark by said assignee, a copy of which bill of sale, this defendant exhibits, marked C (copied in p.), and prays to make proof of the original. And this defendant says that by virtue of said sale and conveyance, all the right, title and interest in said claim against the Republic of Mexico became vested in this defendant, and he thereby acquired a right to prosecute said claim in his own behalf and to appropriate to his own use the whole amount of the award founded on said claim. And this defendant says that he prosecuted said claim wholly at his own expense and risk, and that he expended much time and large sums of money to procure evidence, and to employ agents to aid in the prosecution of said claim, and this defendant humbly submits and insists, that as the bona fide purchaser of said claim, he is entitled to the sole benefit of said award, and that if said claim, at the time that this defendant entered into bankruptcy as aforesaid, and at the time of the sale aforesaid, possessed great value, which this defendant denies, the said complainant was guilty of laches and neglect in not looking after said claim against the Mexican Republic, when it was placed in the hands of the assignee aforesaid, for the benefit of said complainant and the other creditors of this defendant.

And this said defendant further says, that the said complainant has not presented a notice to the Secretary of the Treasury of his intention to contest the payment of the award aforesaid, or filed his bond for the payment of the award aforesaid, or filed his bond for the payment of costs and damages, according to the provisions of the 8th section of "An Act entitled an Act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," and that, therefore, this said complainant is not entitled to any relief from this Honorable Court.

And this defendant denies all combination and confederacy charged against him in said bill of complaint, without that any other matter or thing in the said bill of complaint contained, and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true, to his knowledge or belief; all which matters and things this defendant is ready to aver, prove and maintain, as this Honorable Court shall direct, and prays to be hence dismissed, with his costs, damages, and charges, in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts.

On this second day of October, 1851, personally appeared F. N. Clark, and made oath that the facts stated in the above answer, as of his own knowledge, are true, and, as far as stated, on affirmation and belief, he believes them to be true as stated.

Before me,

GEO. S. HILLARD,
Commissioner of the Circuit Court of the United States for Massachusetts District.

And now, at the same time, said F. N. Clark comes into court here, by John L. Hayes, Esq., his Solicitor, and files here the following answer to the petition of Charles Stanton, filed in this cause, to wit:

Answer of F. Clark to Stanton.

In the Circuit Court of the United States for the District of Columbia.

In Equity.

The answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant, to the petition against this defendant by Charles Stanton.

This defendant, now and at all times saving and reserving to himself all advantages and benefits of exception to the errors and imperfections contained in said petition for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, he answering, says, that he is not informed, save by the complainant's petition and bill, whether the said complainant did, on or about the 4th day of November, in the year 1842, or at any other time, did recover any judgment against this defendant, as is alleged in said complainant's petition and bill, and prays that said complainant may be compelled to make proof thereof.

And this defendant says that the said petitioner had notice of the proceedings in bankruptcy in the District Court of the United States for the District of New Hampshire in behalf of this defendant, and mentioned in said petition.

And this defendant, for further answer to the various averments and allegations made in said petition, refers to the answer which he has filed in this honorable Court, to the bill of complaint of Benjamin C. Clark, to which bill the said petitioner has prayed to become a party, and to the bill of complainant which this petitioner has filed against this defendant.

And this defendant prays this honorable Court, that the answer of this defendant to the said bill of complaint of Benjamin C. Clark, and to the said answer to said petitioner's bill of complaint, may be received as a full and perfect answer to all the averments and allegations of the said petitioner which are not particularly admitted or denied.

And this defendant says, that at the time of the filing of the said petitioner's petition, and within thirty days from the award mentioned in said petition, and in said bill of complaint, and in said bill of complaint of Benjamin C. Clark, had proved no debt against this defendant in the District Court of the United States, for the District of New Hampshire aforesaid, and at that time had no right or interest in any assets of this defendant in Bankruptcy, if any at that time existed, and at that time had no such claim upon the amount awarded to this defendant, as mentioned in said petition or any part thereof, as was intended to be protected and secured by the 8th section of the Act, entitled, "An Act to carry into effect certain stipulations of the treaty between the United States of America, and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," and that the said petitioner did not file the notice and bond required by the said 8th section, in the time specified, nor according to the provisions of said section, and therefore is not entitled to relief from this honorable Court.

And this defendant, denies all combination and confederacy charged against him in said petition, without that any other matter or thing in the said petition contained and not hereinafter and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true to his knowledge or belief, all which things this defendant is ready to aver, prove and maintain, as this honorable Court shall direct, and prays to be hence dismissed with his costs, charges and damages, in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

On the second day of October, 1851, personally appears F. N. Clark, and makes oath that the facts stated in the above answer, as of his own knowledge are true, and as far as stated on affirmation and belief, he believes them to be true, before me,

GEO. S. HILLARD.
Commissioner of the Circuit Court of the United States for Massachusetts District.

And now, at the same time, the said Ferdinand N. Clark, by his

solicitor aforesaid, files in Court here the following answer, to the petition of David Barclay and others, filed in said cause, to wit :

In the Circuit Court of the United States for the District of Columbia.

The Answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant, to the petition of David Barclay and others, petitioners against this defendant.

Answer of F. Clark to Barclay.

This defendant, now and at all times saving and reserving to himself all advantages and benefit of exception to the errors and imperfections contained in said petition, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, he answering admits, that the said petitioners, at or about the time in that behalf set forth in said petition, in the Superior Court of the State of New York, recovered judgment against this defendant for the sum mentioned in said petition.

And this defendant says, that the said petitioners had notice of the pendency of the proceedings in Bankruptcy in the District Court of New Hampshire, in behalf of this defendant, and mentioned in said petition.

And this defendant, for further answer to the various averments and allegations made in said petition, refers to the answer which he has filed in this honorable Court, to the bill of complaint of Benjamin C. Clark, to which bill the said petitioners have prayed to become a party, and this defendant prays this honorable Court, that the answer of this defendant to the said bill of complaint of Benjamin C. Clark, together with the exhibits there referred to, may be received as a full and perfect answer to all averments and allegations of the said petitioners, which are not herein particularly admitted or denied.

And this defendant says, that at the time of the filing of the said petitioner's petition, and within thirty days from the award mentioned in said petition, and in said bill of complaint of Benjamin C. Clark, had proved no debt against this defendant in the District Court of the United States for the District of New Hampshire aforesaid, and at that time had no right or interest in any assets of this defendant in bankruptcy, if any at that time existed; and at that time had no such claim upon the amount awarded to this defendant, as mentioned in said petition, or any part thereof, as was intended to be protected and secured by the 8th section of the act entitled "An Act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight; and that the said petitioner did not file the notice

and bond required by the said 8th section in the time specified, nor according to the provisions of said section, and therefore is not entitled to relief from this Honorable Court.

And this defendant denies all combination and confederacy charged against him in said petition without that, that any other matter or thing in the said petition contained, and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true to his knowledge or belief; all which things this defendant is ready to aver, prove, and maintain, as this Honorable Court shall direct, and prays to be hence dismissed, with his costs, charges, and damages, in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

On this second day of October, 1851, personally appears F. N. Clark, and makes oath that the facts stated in the above answer, as of his own knowledge, are true, and, as far as stated on affirmation and belief, he believes them to be true as stated.

Before me,
GEO. S. HILLARD,
Commissioner of the Circuit Court of the United States for Massachusetts District.

And now, at the same time, said F. N. Clark, by his Solicitor aforesaid, filed in Court here this following answer to the petitions of William W. Chester, Fleming Duncan, and John Logan, filed in said cause, to wit:

Answer of F. Clark to Duncan and Logan.

In the Circuit Court of the United States for the District of Columbia.

In Equity.

The Answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant, to the petition of William W. Chester, and to the petition of Fleming Duncan and John Logan, petitioners against this defendant.

This defendant, now and at all times saving and reserving to himself all advantage and benefit of exception to the errors contained in said petitions, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, he answering, says, that he is informed that the said William W. Chester has filed his bill of complaint in this Honorable Court against this defendant

for certain purposes, more fully set forth in said bill of complaint; also, that one B. C. Clark has filed his bill of complaint in this Honorable Court against this defendant for certain purposes, which fully appear in said bill. And this defendant insists, that neither the said William W. Chester, or the said B. C. Clark, by the filing of said bills, are entitled to the relief of this Honorable Court for the purpose of securing to themselves, or any party other than this defendant, any claim, right, or lien, upon a certain award made to this defendant by the commissioners appointed under the Act of Congress of the United States, passed on the third day of March, in the year 1849, under the treaty between the United States and the Republic of Mexico.

And this defendant further answering, admits, that one Stephen E. Glover, in the Supreme Court of Judicature of the people of the State of New York, recovered judgment against this defendant for a certain sum of money, but of the amount thereof this defendant is not informed, save by the said petitioner's petition.

And this defendant further answering, says, that he is not informed, but by the petitions aforesaid, whether the proceedings founded, growing out of said judgments, and particularly set forth in said petitions, were had, as is alleged in said petitions; and this defendant prays, that if material, the said petitioners may be compelled to make proof thereof.

And this defendant says, that he is informed and believes that the said Stephen E. Glover and one Joseph McMurray did recover, in the Supreme Court of Judicature, in and for the State of New York, the two several judgments mentioned in the petitions of said petitioners, but as to the time when said judgments were recovered, or as to the amount thereof, this defendant is not informed but by said petitions.

And this defendant further answering, admits that some time in the year one thousand eight hundred and forty-two, one William C. Pickersgill, in the Superior Court of the City and County of New York, recovered certain judgments against this defendant, but as to the amounts of said judgments, this defendant is not informed, save by the petitions aforesaid. And this defendant says, that he is not informed, save by the petitions aforesaid, whether the proceedings founded on and growing out of said last-named judgments, and particularly set forth in said petitions, were had as alleged in said petitions. And he says, that he is not informed, except by said petitions, whether the assignments, sales, and transfers to said Chester, and to said Fleming, Duncan, and John Logan, mentioned in said petitions, were made as therein alleged. And this defendant prays, that if material, the said petitioners may be compelled to make proof of said proceedings, and of said sales, assignments, and transfers.

And this defendant says, that he is advised by counsel, and now insists, that whatever proceedings were had, founded on and growing out of said last-named judgments, no such lien was created thereby as was intended to be protected and secured, or was protected and secured by the second section of the Act, entitled, "An Act to establish a uniform system of Bankruptcy throughout the United States, passed August 19th, 1841."

And this defendant admits, that at the time when said judgments are alleged in said petitions to have been recovered against him, he was possessed of a certain claim against the Republic of Mexico, and that upon said claim the Board of Commissioners, under the late treaty between the United States and Mexico, there was awarded to this defendant the sum of $86,786 29, and that said award was founded on said claim.

And this defendant absolutely denies that at the time of the rendition of the judgments mentioned in said petitions, he did clandestinely, secretly, and fraudulently abscond from the City of New York, for the purpose of defeating, delaying, or defrauding his creditors.

And this defendant denies that during the pendency of the proceedings in Bankruptcy in the District Court of New Hampshire in his behalf, which he will hereafter more fully recite, that he remained in and continued a resident in the City of New York, and, he says, that until about a year previous to his leaving the City of New York he had been for many years a resident of the Island of Cuba; that he was only temporarily resident in said City of New York during the time that he remained in said city; that he carried on no business in said city, and had no fixed habitation there; that he never had any intention of permanently remaining or residing in said city, but that he left the Island of Cuba for the purpose of residing in one of the Eastern States, where he was born; that he publicly and openly removed from said City of New York for the benefit of his health, for the more convenient prosecution of his business and pursuits, and to carry out his original intention when he returned from the Island of Cuba to the United States, and without any intention of defrauding or avoiding his just creditors; that at the time of filing his petition to be declared bankrupt, this defendant was a resident of the State of New Hampshire, and was a resident of said State during the whole time of the pendency of the proceedings in Bankruptcy aforesaid.

And this defendant, for the purpose of setting forth said proceedings in Bankruptcy, referred to in said petitions more fully than they are there recited, says that on the 28th day of January, 1843, this defendant being at that time a resident of the State of New Hampshire, filed in the clerk's office of the District Court of the United States, for the District of New Hampshire, his petition to

be declared bankrupt; that on the 22d day of March, 1843, after due notice, this defendant was declared and decreed a bankrupt, pursuant to the Act of Congress entitled "An Act to establish a uniform system of Bankruptcy, throughout the United States," passed August 19th, 1841; that annexed to the petition of this defendant to be declared a bankrupt was a schedule, marked (B), which schedule contained an accurate inventory of the property, rights, and credits of this defendant, at the time of filing said petition, of every name, kind, and description; that among other things in said schedule, there was mentioned, as belonging to the defendant, and as particularly mentioned and described as was required by the rules and practice of said District Court, a claim against the Mexican Republic, which claim this defendant says was the identical claim upon which the award mentioned in said petitions was founded; and this defendant says, that on the 22d day of March, 1843, by a decree of said District Court of New Hampshire, John Palmer, of South Hampton, in said District, was duly appointed assignee of the estate of this defendant, and gave his bond in compliance with the order of said Court; and this defendant says, that by force of said Decree of Bankruptcy, and by said appointment of the said assignee, all the property and rights of property of this defendant, of every name and nature, among other things said claim against the Republic of Mexico, became vested in said assignee.

And this defendant says, that on the 17th day of December, 1844, after due notice, it was ordered and decreed by said District Court, that this defendant was fully discharged of and from all his debts, owing by him in his private right and capacity, at the time of the presentation of his petition to be declared bankrupt. And this defendant says, that he was thereby discharged from the judgments recovered against him by the said Stephen E. Glover and Joseph McMurray, and mentioned in said petitions.

And this defendant says, that notice of the proceedings in his matter in bankruptcy aforesaid, was published in the leading papers in New Hampshire, and he is informed and believes, and so states the fact to be, that notice of the pendency of proceedings in bankruptcy was published in the leading papers in New Hampshire, and he is informed and believes, and so states the fact to be, that notice of the pendency of proceedings in bankruptcy in the District Court of New Hampshire, was personally served upon each of the creditors who resided without the State of New Hampshire. And this defendant says, that the name and residence of the said Stephen E. Glover, was placed on the list of creditors attached to his petition to be declared bankrupt, and he believes that the said petitioners, and the said Glover and McMurray, had notice of the pendency of the proceedings in bankruptcy in his behalf, in the District of New Hampshire.

And this defendant says, that notwithstanding all the creditors of this defendant had notice of the proceedings in bankruptcy aforesaid, neither said petitioners, or said Glover and McMurray, or any other creditor, ever filed in the District Court aforesaid, any proof of debt in the matter of this defendant in bankruptcy, or any objections to the proceedings in bankruptcy, in his behalf, or in the doings of the assignee aforesaid, until after the award aforesaid was made: and this defendant insists that if any loss or injury has accrued to said petitioners, in consequence of the proceedings in bankruptcy of this defendant, by said assignee, it has been wholly through the laches and negligence of said petitioners.

And this defendant further answering says, that on the 14th day of March, 1845, the said John Palmer, assignee as aforesaid, filed his petition in said District Court of New Hampshire, praying said Court to pass an order or decree, that all the estate and property of which this defendant was seized at the time of his bankruptcy, should be sold, transferred, and assigned; and thereupon, on the 14th day of March, 1845, it was ordered by said Court, that the estate, property and demands of this defendant, as specified in the prayer of said petition for sale, and in the schedule thereto annexed, should be sold at public auction, within six months from the date of said order, and at such intermediate times, and at such places, as in the opinion of the assignee would best promote the interest of all concerned, after reasonable notice of such sale should have been given, either by posting up or inserting the same in some newspaper ten days before the sale.

And this defendant says, that the said John Palmer, assignee as aforesaid, in pursuance of said decree, and after having complied with all the orders of said District Court in the premises, and having given notice according to the order of said Court, did, on the 9th day of April, 1845, sell at public auction to one R. M. Clark, of Boston, all the estate, property and demands of said bankrupt, this defendant, and mentioned in the schedules attached to the petition of this defendant to be declared bankrupt, and in the petition of this defendant to be declared bankrupt, and in the petition for sale aforesaid, and schedules thereto annexed, the said R. M. Clark being the highest bidder therefore, and this defendant says, that the aforesaid claim against the Mexican Republic was specifically mentioned in said schedule, and was included in said sale, and that all the interest and title thereto by virtue of said sale, passed from said assignee to the said R. M. Clark; and that by force of said sale under the decree and proceedings aforesaid, the said claim against the Republic of Mexico passed to said R. M. Clark discharged of all or any lien which might have existed thereon.

And this defendant says, that the said John Palmer, assignee as aforesaid, on said 9th day of April, 1845, executed and delivered to

the said R. M. Clark a formal bill of sale, sealed and acknowledged, conveying, transferring, and assigning to said R. M. Clark all said property and demands, specifically mentioning in the schedule attached thereto, among other demands, the claim against the Mexican Republic aforesaid, a copy whereof this defendant exhibits, marked A., and prays to make proof of the original. And this defendant also exhibits an exemplified copy of all the proceedings in bankruptcy aforesaid, marked B., said exhibits being filed with the answer of this defendant to the bill of Benjamin C. Clark. (See copy Record of Proceedings in Bankruptcy, at p. 58, for both Exh'ts.)

And this defendant expressly says that no artifice or fraud was resorted to by him to depress the value of said demands and claims, and in particular said claim against the Republic of Mexico, neither does he know or believe that any artifice, collusion, or fraud was used by any person whatsoever in relation to said sale, and he says that at the time of the sale of said estate, property, claims, and demands, including the said claim against the Republic of Mexico, the same were reputed to be and in fact were nearly, if not wholly without value, and he believes that said claims were considered by said petitioners as without value, and he says that circumstances, wholly unforeseen at the time of said sale, have arisen since said sale, which have given value to said claim against the Republic of Mexico.

And this defendant says that on the 10th day of April, A.D. 1845, he purchased, for a valuable consideration, of said R. M. Clark, all the estate, property, and demands conveyed by said assignee to said R. M. Clark, and among them said claim against the Republic of Mexico, and that on said 10th day of April, 1845, the said R. M. Clark conveyed to this defendant, by a formal bill of sale, all the right, title, and interest, which the said R. M. Clark had in the estate, property, and demands conveyed to the said R. M. Clark by the said assignee, a copy of which bill of sale this defendant exhibits marked (C, hereinbefore copied at p.), and prays to make proof of the original. And this defendant says that by virtue of this sale and conveyance, all the right, title, and interest in said claim against the Republic of Mexico became vested in this defendant, and that he thereby acquired a right to prosecute said claim in his own behalf, and to appropriate to his own use the whole amount of the award founded on said claim.

And this defendant says that he prosecuted said claim wholly at his own expense and risk, and that he expended much time and large sums of money to procure evidence and to employ agents to aid in the prosecution of said claim.

And this defendant humbly submits and insists that as the bona fide purchaser of said claim, he is entitled to the sole benefit of said award, and that if this claim, at the time that this defendant entered into bankruptcy as aforesaid, and at the time of the sale aforesaid,

possessed great value, which this defendant denies, the creditors of this defendant, and the said petitioners, were guilty of laches and negligence in not looking after said claim against the Republic of Mexico when it was placed in the hands of the assignee aforesaid for their benefit.

And this defendant further says that the said petitioners have not filed their notice or notices with the Secretary of the Treasury of their intention to contest the payment of the award aforesaid, or their bond or bonds for the payment of costs and damages, according to the provision of the 8th section of an Act entitled "An Act to carry into effect certain stipulations between the United States of America and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight, and that therefore the said petitioners are not entitled to any relief from this honorable Court.

And this defendant denies all combination and confederacy charged against him in said petitions, without that that any other matter or thing in the said petitions of said petitioners contained, and not herein and hereby well and sufficiently answered unto, confessed, avoided, traversed, and denied, is true to the best of his knowledge and belief; all which matters and things this defendant is ready to aver, prove, and maintain, as this honorable Court shall direct, and prays to be hence dismissed, with his costs, damages, and charges in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts,

On this second day of October, 1851, personally appears F. N. Clark, and makes oath that the facts stated in the above answer, as of his own knowledge, are true, and as far as stated on information and belief, he believes them to be true. Before me.

GEORGE S. HILLARD,
Commissioner of the Circuit Court of the United States for Massachusetts District.

And now at the same term comes into Court here, Ferdinand N. Clark, and by his solicitor aforesaid, files the following answer to the Bill of Complaint of Benjamin C. Clark, to wit:

In Chancery.

Answer of F. Clark, to B. C. Clark.

The Answer of Ferdinand N. Clark, otherwise called Ferdinand Clark, defendant, to the Bill of Complaint of Benjamin C. Clark, complainant, against this defendant.

This defendant, now and at all times saving and reserving to himself all advantage and benefit of exception to the errors and imperfections contained in the said Bill of Complaint of the said complainants, for answer thereto, or to so much thereof as he is advised it is material for him to make answers unto, he answering, admits that the said complainant, at or about the time in that behalf set forth in the complainant's Bill of Complaint in the Superior Court of the State of New York, recovered judgment against this defendant for the sum mentioned in the complainant's Bill of Complaint.

And this defendant says that the judgment aforesaid was obtained by collusion and fraud, and is wholly void, and that the said complainant, at the time of the rendition of said judgment, was indebted to this complainant to an amount exceeding twenty thousand dollars, whereof this defendant craves to make proof. And this defendant admits that at the time of the rendition of said judgment he was insolvent, and had no property which could be reached by execution at law.

And this defendant wholly and absolutely denies that he fraudulently absconded from the City of New York, where he formerly resided, to escape the pursuit of his creditors, and that he has fraudulently kept himself beyond the reach of the process of the State of New York, and he says that until about a year previous to his leaving New York he was a resident of the Island of Cuba, and that he was only temporarily resident in New York; that he carried on no business there, and never had any intention of remaining there, but that he left the Island of Cuba for the purpose of residing in one of the Eastern States, where he was born; that he publicly and openly removed from the said City of New York for the benefit of his health, and for the more convenient prosecution of his business, and to carry out his original intention when he came to said city, and without any intention of avoiding or defrauding his just creditors.

And this defendant further answering admits, that an award was made by the Board of Commissioners on Claims against the Republic of Mexico in favor of this defendant, for the sum of $\$86{,}786\frac{29}{100}$, but he denies that the date of said award is correctly set forth in said complainant's bill.

And this defendant further answering admits, that after leaving the City of New York he proceeded to the State of New Hampshire, and became a resident and citizen thereof, and that he filed his petition, to be declared bankrupt, in the District Court of the United States for the District of New Hampshire, and was duly declared bankrupt, and that a decree was passed by the said Court, whereby all the right, title, interest, credits, estates, choses in action, and property of every name, nature, and description whatsoever, of this defendant, were passed to and vested in the assignee in bankruptcy, duly appointed and qualified in the premises.

And he saith that his petition to be declared bankrupt was filed in the clerk's office of the District Court of New Hampshire on the on the 28th day of January, 1843; that on the 22d day of March, 1843, he was by said Court, after due notice, declared and decreed a bankrupt, pursuant to the Act of Congress, entitled "An Act to establish a uniform system of Bankruptcy throughout the United States," passed August 19, 1841. That on the 22d day of March, 1843, by a decree of said Court, John Palmer, of South Hampton, in said District, was appointed assignee of the estate of this defendant, and gave his bonds in compliance with order of said Court; that on the 14th day of December, 1844, said assignee filed in the clerk's office of said Court his return and account, in which he charged himself and acknowledged to have received the amount of property mentioned in the schedule B. of said bankrupt, which schedule B. contained an inventory of the property, rights, and credits of this defendant at the time of his filing his petition to be declared bankrupt; and this defendant says that on the 17th day of December, 1844, it was ordered and decreed by said District Court of New Hampshire that the said defendant was fully discharged of and from all his debts owing by him in his private right and capacity at the time of the presentation of his petition to be declared a bankrupt.

And this defendant further answering, denies that said complainant has only within a day or two of the filing of this bill, ascertained the fact of the bankruptcy of this defendant, and says that notice of all the proceedings in his case in bankruptcy was published in the leading papers of New Hampshire, and he is informed and believes, that a list of all the bankrupts in New Hampshire was published in a public print in the City of Boston, where this complainant resided before the repeal of the bankrupt law; and this defendant says that although at the time of his entering into bankruptcy, this complainant was indebted to this defendant to the amount of thirty thousand dollars, which he had stated in the schedule of assets, yet as the accounts between them were unsettled, the name of this complainant was placed on the list of his creditors, and he is informed and believes, and so states the fact to be, that notice of the pendency of the proceedings in bankruptcy in the District Court of New Hampshire, was personally served upon each of the creditors of every bankrupt, when such creditors resided out of the State, and he believes that personal notice was served upon this complainant.

And this defendant says, that notwithstanding the said complainant and all the other creditors of this defendant, had due notice of the pendency of the proceedings in bankruptcy in his case, neither this complainant nor any other creditor filed in the District Court in New Hampshire, any proof of debt in the case of this defendant, or any objections to the proceedings in bankruptcy in his behalf, or to the appointment or doings of the said assignee, until after the filing

of said bill of complaint, and this defendant insists that if any loss or injury has accrued to this complainant in consequence of the proceedings aforesaid in bankruptcy, on account of the management of his assets in bankruptcy by said assignee, it has been through the laches and negligence of said complainant.

And this defendant further answering admits that the same identical claim against Mexico, upon which the said award has been recently made as stated in said bill of complaint, was transferred and passed to said assignee by virtue of the decree of said District Court. But this defendant expressly and absolutely denies that the said claim was so mentioned or described in his petition to be declared bankrupt, as to prevent the same from being made available to the creditors. And this defendant says that his claim against the Republic of Mexico was expressly and distinctly mentioned in the schedule of his assets attached to his petition to be declared bankrupt, and as fully and particularly as was demanded by the rules and practice in said Court; and this defendant says that said claim is mentioned in said schedule as subject to a mortgage; and he says that such a mortgage did in fact exist; that he did not know the amount thereof, but verily believed it to be more than the value of the claim.

And this defendant admits that the value of said claim was not declared in said schedule, and says that he at that time believed, and had good reason to believe, that said claim was wholly worthless, and that he was not induced to suppress the amount of said claim for the purpose of leading to a belief that it was small.

And this defendant further answering says, that on the 14th day of March, 1845, the said John Palmer, assignee as aforesaid, filed his petition in said District Court of New Hampshire, praying said Court to pass an order that all the estate and property of which this defendant was seized at the time of his bankruptcy, should be sold, transferred, and assigned; and thereupon, on the 14th day of March, A.D. 1845, it was ordered by said Court that all the estate, property, and demands of said bankrupt, as specified in the prayer of said petitioner and the schedules thereto annexed, should be sold at public auction, within six months from the date of said order, and at such places and at such intermediate times as in the opinion of the assignee would best promote the interest of all concerned, after reasonable notice of such sale should have been given, either by posting up or inserting the same in some newspaper ten days before the sale.

And this defendant says, that the said John Palmer as assignee aforesaid, in pursuance of said decree, and after having complied with all the orders of the said District Court in the premises, and having given notice according to the order of said Court, did on the ninth day of April, A.D. 1845, sell at public auction, to one R. M. Clark,

of Boston, all the estate, property, and demands of said bankrupt, and mentioned in the schedules attached to the petition of said Ferdinand Clark, this defendant, to be declared bankrupt, and in the petition for sale and schedules thereto annexed, of said assignee, the said R. M. Clark being the highest bidder therefor. And this defendant saith the claim against the Mexican Republic was specifically mentioned in said schedules, and that all the interest and title thereto, by virtue of said sale, passed from said assignee to said R. M. Clark.

And the said defendant saith that the said John Palmer, on said 9th day of April, 1845, executed and delivered to said R. M. Clark, a formal bill of sale, sealed and acknowledged, of all said estate, property and demands, specifically mentioning in the schedule attached thereto, among other demands, the claim against the Mexican Republic aforesaid.

And this defendant saith that on the tenth day of April, A.D. 1845, this defendant purchased for a valuable consideration, of said R. M. Clark, all the estate, property and demands conveyed by said assignee to said R. M. Clark, and among them said claim against the Republic of Mexico; and that on said tenth day of April, A.D. 1845, said R. M. Clark conveyed to this defendant, by a formal and valid bill of sale, all the right, title and interest which the said R. M. Clark had in the estate, property, and demands conveyed to said R. M. Clark, by the said assignee, a copy of which bill of sale this defendant exhibits, marked (*C.*, copied at p. 171), and prays to make proof of the original, together with a copy of the bill of sale from said John Palmer, assignee, to said R. M. Clark, marked (A., copied at p. 169), and prays to make proof of the original, together with a copy of all the proceedings in his case in bankruptcy, marked B., copied at p.

And this defendant says, that by virtue of this sale and conveyance, all the right, title, and interest in said claim against the Republic of Mexico became vested in this defendant, and that he thereby acquired a right to prosecute said claim in his own behalf, and to appropriate to his own use, the whole amount of the award founded on said claim.

And this defendant says, that at the time of the purchase by him of said estates, property, claims and demands, including said claim against the Republic of Mexico, the same were reputed to be, and were nearly if not wholly without value, and as no debts were proved against his estate in bankruptcy, he has reason to believe, and does believe, that said demands were considered by his creditors as wholly without value; and he says that circumstances have arisen since the sale by the said assignee and the purchase by this defendant, which have given value to said claim against the Republic of Mexico.

And this defendant saith, that even since the late treaty with the

Republic of Mexico, providing for the payment of the claims of American citizens against Mexico, he at one time had determined to abandon said claim.

And this defendant says that he prosecuted said claim wholly at his own expense and risk, that he expended much time and large sums of money to procure evidence, and to employ agents to aid in the prosecution of said claim.

And this defendant hereby submits and insists that, as the bona fide purchaser of said claim against the Republic of Mexico, he is entitled to the sole benefit of said award, and that this complainant, even if anything were due to him from this defendant, which he denies, was guilty of laches and negligence in not looking after said claim against the Republic of Mexico, when it was placed in the hands of the assignee aforesaid, for the benefit of all his creditors.

And this defendant says, that at the time of the filing of the said complainant's bill, and within thirty days from the date of the award aforesaid, this said complainant had proved no debt against this defendant in the District Court of New Hampshire, aforesaid, and at that time had no right or interest in any assets of this defendant in bankruptcy, if any at that time existed, and at that time had no such claim upon the amount awarded to this defendant as before mentioned, or any part thereof, as was intended to be protected and secured by the 8th section of the Act, entitled, "An Act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, one thousand eight hundred and forty-eight," and therefore is not entitled to relief from this honorable Court, and that said complainant did not file the notice and bond required by said 8th section, within the time specified in said section.

And this defendant denies all combination and confederacy charged against him in said bill of complaint, without that any other matter or thing in the said bill of complaint contained, and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true to his knowledge or belief, all which matters and things this defendant is ready to aver, prove, and maintain, as this honorable Court shall direct, and prays to be hence dismissed with his costs, damages, and charges, in this behalf most wrongfully sustained.

F. N. CLARK.

UNITED STATES OF AMERICA,
District of Massachusetts.

On this second day of October, 1851, personally appeared F. N. Clark, and makes oath that the facts stated in the above answer, as

of his own knowledge, are true, and as far as stated on affirmation and belief, he believes them to be true, before me.

GEO. S. HILLARD.
Commissioner of the Circuit Court of the United States, for Massachusetts District.

Thereupon the said Ferdinand Clark, by his solicitor aforesaid, filed in court here the following motion, to wit:

Circuit Court of the United States for the District of Columbia.
At the Rules, on the first Monday of October, A.D. 1851.

In Equity.

Motion to Dismiss Injunction.

BENJAMIN C. CLARK, Complainant,
against
FERDINAND CLARK, Defendant.

And the said defendant, Ferdinand Clark, upon filing his answers to the bill of complaint of the said Benjamin C. Clark, complainant, and the petitions therein filed of William W. Chester and Charles Stanton, in the proceedings in said bill had, filed, moves this honorable Court to dissolve the injunctions prayed for in said bills and petitions, and granted by this Honorable Court.

FERDINAND CLARK,
By JOHN L. HAYES, *his Solicitor.*

Continued.

Whereupon the said cause, by the consent of the said parties, and their respective solicitors, and the consent of the Court, was regularly continued at rules, until the first Monday in March, in the year eighteen hundred and fifty-two. On which said last-mentioned day, the said parties, by their solicitors aforesaid, come into Court here, and file the following agreement and general replication, to wit:

Agreement of Counsel.

B. C. CLARK & AL.
vs.
FERDINAND CLARK.

In this case it is agreed that either party may set it for hearing during the March Term, 1852, on bill, petition, answer, exhibits,

and replication, upon giving three days' notice to the counsel of the opposite party, and in the mean time either party may take testimony before any Justice of the Peace, or any other judicial officer, upon notice to the counsel at Boston of the opposite party, five days before taking the same, and on exhibiting interrogatories with such notice, the opposite party to exhibit cross-interrogatories; all testimony so taken to be filed and to be considered in the cause at the hearing.

Counsel in Boston for compl't,

W. A. GARDINER & C. G. REPLEY.
For Def'd't, RUFUS CHOATE.
J. M. CARLISLE, *for Compl't.*
JOHN L. HAYES.

Replication by B. C. Clark and Hackett.

J. M. CARLISLE.

This agreement applies to the cases of the assignee in bankruptcy and B. C. Clark, as to which the entry to set for hearing is stricken out. It is also to be extended to the other causes if the counsel sign the agreement within the present week, and meantime as to those the entry made is to stand. March 1st, 1852.

JOHN L. HAYES.

UNITED STATES OF AMERICA,
District of Columbia, Circuit Court, March Term, 1852.

B. C. CLARK & AL.
vs.
FERDINAND CLARK.

Agreement of Solicitors.

It is agreed that depositions, otherwise regularly taken by either party under the agreement on file in this cause, may be filed in the cause and used at the hearing, although the same be not at the time of filing enclosed and sealed up, and directed by the magistrate taking the same.

C. G. RIPLEY, *for Pl'ff.*
R. CHOATE, *for Df't.*

Boston, May 10th, 1852.

Continued.

Thereupon, the aforesaid complainants and defendants, by their said solicitors concurring, and by order of the Court, the said cause was regularly continued, at rules, until the first Monday of October next.

At which said first Monday of October, in the year eighteen hundred and fifty-two, the said complainants and defendant, by their respective solicitors, come again into Court here; and the aforesaid Charles Stanton, by his solicitor aforesaid, files in Court here the following replication, to wit:

General Replication of C. Stanton.

The complainant, Charles Stanton, saving and reserving to himself all, and all manner of exceptions, &c., for replication to the answer of Ferdinand Clark, the defendant, says, that he will aver, maintain, and prove his said petition to be true and sufficient in the law to be answered unto by said defendant, and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the repliant, without that, &c.

CHAS. ABERT, *Sol. for Pet'r.*

Set for Hearing.

Whereupon the said complainants and defendant, by their solicitors aforesaid, consent and agree to, and do set the said cause for final hearing, on the fourth Monday of March next. On which mentioned fourth Monday in March, in the year eighteen hundred and fifty-two, to which said day the said cause was continued, come again in the said Circuit Court here, as well the said complainants, by their solicitors aforesaid, as the said defendant, by his said solicitor. Thereupon all and singular the premises being by the Court here seen, heard, and fully understood, and mature consideration therein had, the Court made the following decree, to wit:

BENJAMIN C. CLARK, WILLIAM H. Y. HACKETT, Assignee, in Bankruptcy, &c.

vs.

FERDINAND CLARK, &c.

} In Chancery, Cir. Ct. D. C.

This cause having been set for hearing, by consent of parties, and by order of the Court on bill, petitions and exhibits, and on answers and exhibits, and on general replication and testimony on both sides, and having been fully argued by counsel,

Decree.

It is now, on this 30th day of May, 1853, by the Court, ordered, adjudged, and decreed, that the fund in controversy in this

cause, to wit, the sum of sixty-nine thousand four hundred and twenty-nine 04 doll's ($69,429 04), which is remaining in the treasury of the U. S., of the amount of the award to Ferdinand Clark, mentioned in the bill, petitions, and answers, deducting therefrom the complainant's costs here, to be taxed by the Clerk, be paid over to the complainant, William H. Y. Hackett, assignee in bankruptcy of said Ferdinand Clark, for distribution in the Bankrupt Court, where the proceedings in bankruptcy are pending; to wit, the District Court of the United States for the District of New Hampshire, under the order of the said Court, according to the respective rights of the creditors of the said bankrupt, to whom the said Court may order the same to be distributed. By order of the Court.

Test,

JNO. A. SMITH, *Clerk.*

Appeal.

And thereupon, the said defendant, by his solicitor aforesaid, prays, in open Court, an appeal from the judgment and decree aforesaid, made by the Court in the premises, to the Supreme Court of the United States, and to them it is granted, whereupon he files in Court here the following appeal bond, to wit:

Bond.

Know all men by these presents, that we, Ferdinand Clarke, George W. Frothingham, and Lemuel C. Clarke, are held and firmly bound unto William H. Y. Hackett, in the full and just sum of one thousand dollars, current money of the United States, to be paid to the said William H. Y. Hackett, his certain attorney, executors, administrators or assigns, to which payment well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this third day of June, eighteen hundred and fifty-three.

Whereas lately, at a Circuit Court of the District of Columbia, sitting as a Court of Equity, for Washington County, in a cause wherein a certain Benjamin C. Clark and and the said William H. Y. Hackett, and others, were complainants, and the said Ferdinand Clark and the Honorable the Secretary of the Treasury of the United States were defendants, a decree was rendered against the said Ferdinand Clark, and he having entered an appeal to the Supreme Court of the United States,

Now the condition of the above obligation is such, that if the said Ferdinand Clark shall prosecute his appeal to effect, and answer all damages and costs if he fails to make his plea good, then the

above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

F. N. CLARK. [SEAL.]
GEO. W. FROTHINGHAM. [SEAL.]
LEMUEL C. CLARK. [SEAL.]

Signed, sealed and delivered,
in the presence of
ISAAC P. CARK.

Approved,
JAS. S. MORSELL,
8th June, 1853.

Office of the United States Attorney, Mass. District.

UNITED STATES OF AMERICA,
Massachusetts District.

June 3, 1853.

Upon personal knowledge and examination under oath of the within named sureties to the within named, I hereby certify, that they are sufficient, over and above all their personal liabilities, for the payment, each of them, of the penalty in said bond.

B. F. HALLETT,
U. S. Att'y for said District.

Further Appeal Bond.

Know all men by these presents, that I, John L. Hayes, of the City of Washington, in the District of Columbia, counsellor at law, am held and firmly bound unto William H. Y. Hackett, in the full and just sum of one thousand dollars, current money of the United States, to be paid to the said William H. Y. Hackett, his certain attorney, executors, administrator or assigns, to which payment well and truly to be made and done, I bind myself, my heirs, executors and administrators, firmly by these presents, sealed with my seal, and dated this eighth day of June, eighteen hundred and fifty-three.

Whereas lately, at a Circuit Court of the District of Columbia, sitting as a Court of Equity, for Washington County, in a cause wherein a certain Benjamin C. Clark and the said William H. Y. Hackett and others were complainants, and one Ferdinand Clark, within named, and the Honorable Secretary of the Treasury of the United States, were defendants, a decree was rendered against the said Ferdinand Clark, and he having entered an appeal to the Supreme Court of the United States,

Now the condition of the above obligation is such, that if the said Ferdinand Clark shall prosecute his appeal to effect, and answer all costs and damages, if he fails to make his plea good, then the above

obligation to be null and void, otherwise to be and remain in full force and virtue in law.

JOHN L. HAYES. [SEAL.]

Signed, sealed and delivered,
in presence of
STEPHEN SPELDON.

Approved.
JAS. S. MORSELL,
8th June, 1853.

Order of Court.

Thereupon it is ordered by the Court here, that a record of the proceedings aforesaid, with all the depositions, letters, and other evidence used on the trial of this cause, with all things thereunto relating, be transmitted to the said Supreme Court; which is done accordingly.

By order of the Court,
Test, JNO. A. SMITH, *Clerk.*

Here follows the depositions and other evidence filed and used in this cause by the complainants and defendants. To wit:

Complainant's Depositions.

CIRCUIT COURT, D. C.
Washington Co.

WM. H. Y. HACKETT, CLARK, STANTON & al.,
vs.
FERDINAND CLARK.

In Chancery. No. 755.

Deposition of J. H. Causten.

The deposition of James H. Causten, Esqr., of the City of Washington, D. C., taken under the agreement of counsel hereto annexed, before the undersigned justice of the peace, in and for the County aforesaid, at the office of the said James H. Causten, in the City of Washington, and County aforesaid, on the 1st day of November, 1852, J. M. Carlisle, Esqr., attending for complainants, that is to say: the said James H. Causten, being duly sworn on the Holy Evangely of Almighty God, and being examined by the counsel for complainants, deposes and says, as follows:

I reside in this City, and have resided here for many years, during which time I have devoted myself to the prosecution of claims upon the Government of the United States, and from time to time,

claims against foreign governments under commissions sitting here. I was engaged in the prosecution of claims against Mexico, under the convention of 1839, and also under the treaty of Guadaloupe Hidalgo. I also represented numerous claimants who were interested in the relief contemplated by the unratified convention with Mexico, of 1843, and had charge of their interest in the interim, between the closing of the first commission (which terminated 28th February, 1842), and the making of said unratified convention, and was in extensive correspondence with them, advising them of the prospects of that negotiation, and of the termination thereof, by said convention, of which termination I advised the defendant F. Clark, 24th December, 1843. I had charge of the claim of the Louisiana, Michael Dougherty master, before the first commission.

The claim embraced the separate interest of Dougherty, as owner of the vessel, and Ferdinand Clark, the defendant in this case, as owner of the cargo. This latter branch of the case, is the same which was awarded to the said Ferdinand Clark, by the late board, under the treaty of Guadaloupe Hidalgo. Notwithstanding every effort on my part, the memorials and proofs in this case did not reach Washington in time to be acted upon by the first board. The case was entered upon the docket, and reported to Congress as having been presented too late for examination.

The proof and papers had been, at my suggestion, sent by Clark to the State department, and there transmitted to the board. After the closing of the commission, they were returned, with the other papers relating to that commission, to the department of State, shortly afterwards, it being generally understood by those interested that the Government of the U. S. would insist upon satisfaction of the claims, which either from delay in presentation, or from failure of the umpire to decide them remained unsettled, I received all the papers and proofs relating to the said claim, from the department of State, for the purpose of examining and preparing the case for such relief, then immediately anticipated. I also received from the defendant certain additional proofs, which were accompanied by the letter of the acting Secretary of State, of date May 31, 1842, the original of which I now exhibit, and a copy whereof is hereby annexed, marked J. H. C. No. 1. (copied, p. 238).

The papers in said case, together with certain other proofs, which I had in the mean time procured, for the benefit of Ferdinand Clark, from Mexico, were by me filed in the State department on the 15th day of November, 1850, subject to the order of the parties interested therein: and I now exhibit the original letter of the State department, acknowledging the receipt thereof, a copy of which letter is hereto annexed, marked J. H. C. No. 2.

I am well acquainted with the handwriting of Ferdinand Clark, the defendant, who was the claimant in the said case of the Loui-

siana, and in whose favor the late Board of Commissioners, under the treaty of Guadaloupe Hidalgo, made an award. I had extensive correspondence with him, in relation to that case and to other matters of his business of which I had charge. I have received many letters from him, purporting to be written and signed by him, in relation to his business, and have acted upon them as his, and he has known and acquiesced in acts of mine founded upon their genuineness. I never saw him write, but from my voluminous business correspondence with him, and our transactions founded thereon, I have no hesitation in saying, that I am well acquainted with his handwriting.

The letters hereto annexed, marked Nos. 3, 4, 5, 6, 7, 8, 9, 9′, 10, 11, 12, 13, 15, 16, 17, 18, 19, are in the proper handwriting of the said Ferdinand Clark. Those which purport to be addressed to me, were received by me in regular course, the others are exhibited to me by the complainant's solicitor.

The letter marked No. 14, is an original letter from me.

Very shortly after the closing of the first Mexican commission (in February, 1842), the American claims not finally adjudicated by that commission were urged upon the Mexican Government by the Government of the U. S. Information was received from the American minister at Mexico, early in the year 1843, to the effect that a convention would be concluded for the immediate settlement of these claims. This information was communicated to the defendant, Clark. In fact, the convention of 1843, by its first article, provided for that settlement, but not having been ratified by Mexico, did not go into effect during the whole period from February, 1842, down to about the period of the breaking out of the war with Mexico. Well-founded claims against that Republic, by our citizens, were considered by me, and so far as I know, by those interested generally, as valuable, and secure of ultimate settlement and allowance. I have no reason to believe that the defendant, Ferdinand Clark, considered his claims as valueless during that period, but on the contrary, that he looked confidently to its allowance. From the time when the annexation of Texas was contemplated, it was expected by me, and so far as I know, generally by those conversant with the subject, that provision would be made for the satisfaction of those claims by our government, in negotiating with Mexico to consent to said annexation, surrendering these claims at a fixed total in part payment to Mexico, and up to the time of the pendency of annexation the satisfaction of the claims by a commission was expected. At the time of the negotiation for annexation, a paper was prepared for the State department, in which I aided, summing up the total of claims to be tendered in part satisfaction to Mexico. I am sure I could not have omitted the case of the Louisiana in that paper.—The date of the letter, No. 14, is Jan'y 4, 1843.

JAMES H. CAUSTEN.

Subscribed and sworn to by James H. Causten before me, the subscriber, a Justice of the Peace, in and for the County of Washington, District of Columbia, this 1st day of Nov'r, 1852.

WILLIAM R. WOODWARD, *J. P.*

J. H. C. No. 1.

J. H. C. No. 1.

DEPARTMENT OF STATE,
Washington, May 31*st*, 1842.

JAMES H. CAUSTEN, Esqr.
Washington.

SIR,—The enclosed letter from Mr. Ferdinand Clark to this department will show the reason of the transmission to you of the accompanying package.

Be pleased to return the letter of Mr. Clark.

I am, Sir,
Your ob't serv't,
FLETCHER WEBSTER, *Act'g Sec'y.*

J. H. C. No. 2.

J. H. C. No. 2.

DEPARTMENT OF STATE,
Washington, 15*th Nov'r*, 1850.

To JAMES H. CAUSTEN, Esquire,
Washington.

SIR,—Your letter of yesterday, accompanied by the papers of Mr. Ferdinand Clark relative to his claim on the Mexican Government in the case of the schooner Louisiana, has been received and placed on file.

I am, very respectfully,
Your obedient servant,
W. S. DERRICK,
Acting Secretary.

No. 3.

No. 3.

NEW YORK, Feb. 23, 1842.

JAS. H. CAUSTEN, Esq.,
Washington City, D. C.

D'R SIR,—I wrote you under date of yesterday by mail, and forwarded to the Secretary the residue of documents I have ready in

relation to my Mexican claim; some of the originals are wanting, and probably I shall be obliged to send to Alvarado or Vera Cruz, to the U. S. consul, for them. This claim is different from most all the others, the register to take aboard cargo at the V. C., the 20 August, 1825, was in my own name, and all the cargo was cleared out in the said register by myself, and also shipped by me and for New Orleans; bills of lading and all the documents correspond. The vessel merely touched at Loto La Marina in wood and water, being a neutral port, and did not attempt to trade or make her entry at the custom-house. I do not believe there is a more just claim in the whole list. (I hope the documents have all reached the mixed Com'n in safety, and have been put in trim for adjustment. I fear the Spanish translations are not perfect, as the young Spaniard who attended to them is not perfect in the English language,—the memorial is of the most importance. I shall be pleased to hear from you, and remain

Y'rs, truly,
F. CLARK.

Please direct to the care Messrs. Barclay & Livingston. (The interest added to my claim will amount to upwards of $70,000.

No. 4.

No. 4.

NEW YORK, June 21, 1842.

JAMES H. CAUSTEN, Esq.,
Washington City.

DEAR SIR,—I had this pleasure on the 9 May, since then I have none of your favors (unanswered). I have this day seen Francis M. Dimond, Esq., who is appointed to the American consulate to the Mexican Republic, at at Vera Cruz, and who will embark for that place in about 10 or 12 days hence (therefore if you are of opinion that any documents are required in the claim of sch'r Louisiana, I will be obliged for a memorandum of the same in season to forward by Mr. Dimond, it being a rare opportunity). I understand the American minister, Waddy Thompson, at Mexico, has made an arrangement with the Mexican Republic for the final adjustment of the claims of the American citizens against the Republic of Mexico, and therefore it is all important that I should have all the documents for examination in readiness at the opening of the new commission; perhaps you can give me some useful information upon the subject.

What has been the result of the claims awarded? Is there any prospect of the claim being made seasonably? I am somewhat anx-

ious respecting my claim against our treasury at Washington, for tonnage duty on Spanish brig, Conde de Villanueva (it has been due to me ever since 1835). Please state how the business stands, and as early as convenient, and much oblige

Y'r obe't serv't,
FERDINAND CLARK.

P. S.—I wish to know if there can be any doubt about the amount of tonnage duty on Conde de Villanueva cargo refunded to me ultimately.

No. 5.

J. H. C. No. 5.

BOSTON, Dec'r 8, 1842.

DEAR SIR,—I am duly in receipt of your esteemed favor of the 10 ult'o, together with a copy of your communication to the American minister, the Hon. Waddy Thompson, of Mexico, the 14th Oct. last, as also a list of the claims and awards of which you have the charge. (I notice your letter was directed to me at New York, and hence is the reason I did not receive it earlier than this day.) My feeble health, since last June, has prevented my attending to business. I shall forward your present despatches to Captain Michael Dougherty, 170 Madison Street, New York, and consult with him concerning the course of proceedings you have recommended. The documents already presented to the Board of Commissioners were deemed perfect, and all the proofs that were necessary to insure the recovery of the claim. The transactions I mentioned were not quite complete in some of the trifling particulars which I mentioned to you at the time the documents were transmitted, in Feb'y, 1842. Probably Charles H. Dougherty, Esq., attorney-at-law, No. 135 Cherry Street, New York, son of Captain Michael Dougherty, may have received the proofs you require. I am not aware that I possess any further proofs than those already presented. I should be glad to learn from you at what time it would be expedient to forward the papers to Mexico; likewise, please state your views regarding the claim, and whether any of those already awarded were similar to this. I hope you will correspond with Charles H. Dougherty, of New York, upon this subject, giving him precise directions as to forms, proofs, and time.

Please state how the matter of Spanish brig Conde de Villanueva stands, and when payment probably will be made.

I am, dear sir, y'rs most truly,
FERDINAND CLARK.

Please direct your letters for me to care of Isaac P. Clark, No. 2 Water Street, by private hand.

Endorsed,
James H. Causten, Esqr.,
Washington City, District of Columbia.

No. 6.

J. H. C. No. 6.

BOSTON, Dec. 9, 1842.

DEAR SIR—I wrote you a few lines yesterday, and the present sends to enclose herewith James H. Causten's letter, 10 Nov'r, and copies of his correspondence with the Hon. Waddy Thompson, Minister of Mexico, and Mr. P. S. Rey's correspondence with Mr. C. and Mr. C.'s list of Mexican claims under his charge. I think the prospects are quite favorable for a speedy adjustment of these claims, and therefore no time should be lost in forwarding the documents in proper form, and in having the necessary proofs and translations presented seasonably.

I was aware that the translations from English to the Spanish language, were done in too much haste to be perfect in every particular. I think Mr. Causten an excellent person to have charge of such business. You can however judge whether or no it is an object to allow him such a heavy fee; the revisal of the translations are very trifling, and could be done by any capable person at Washington City for 8 or 10 $. I, however, must submit the whole to your judgment, and at the same time recommend you to consult a capable counsellor in the premises, with the least possible delay. I have heretofore addressed you several communications upon this subject and other matters, but have not as yet received any replies.

After the perusal of the enclosed documents, please return them to me by private hand, care Isaac P. Clark, No. 2 Water Street. I have no doubt ere this you have received the documents which you wrote for from the Havanna and Vera Cruz. My health does not permit of my attending to any out of door business for the present. I burnt my hands badly and otherwise injured myself a short time ago, in rescuing a girl from flames of fire and instant death, in the house where I reside. I am of opinion that a person could be sent to the City of Washington to attend to the business there which may be required, for $15 or 20, as it is perfectly simple, particularly in case the documents are now to be sent to Mexico, to the American Minister, and to be there adjusted; thus you will perceive that Mr. Causten can only see that the documents are, after being put in proper form, forwarded to Mexico. Mr. Causten's exertions in behalf of the several claimants, and his letter to Mr. Thompson, pro-

bably entitle him to all due consideration, notwithstanding, he should be reasonable in his demands. Whilst the claims were conducted at Washington City, Mr. Causten certainly was useful as an agent.

I am, in much haste,
Your obdt. serv't,
F. CLARK.

P. S.—It will be advisable to send your letter to Mr. Causten by private hand.

Endorsed,
Charles H. Dougherty, Esq.,
Care Captain Michael Dougherty,
170 *Madison Street, New York.*

No. 7.

J. H. C. No. 7.

BOSTON, Dec'r 9, 1842.

DR. SIR—I wrote you yesterday, to which I crave your reference. My letter to Mr. Causten, please return to me by private hand. I have something more to add to it. Interim I hope to hear from you, and remain

Y'rs truly,
F. CLARK.

Endorsed,
Charles D. Dougherty, Esq.,
Care Capt. M. Dougherty,
170 *Madison St.*

No. 8.

No. 8.

BOSTON, Jan. 7, 1843.

DR. SIR—I have for many months past been confined to the house with ill health, and unable to attend to any business. I rec'd y'r favor of the 10th Nov. ult'o, and 4th, and send them to Chas. H. Dougherty of N. York, from whom I am waiting advices. Will you please state how the matter of Spanish brig Conde de Villanueva, stands. I hope I may, I hope I may finish that business this session of Congress.

I am, in haste,
Yrs. truly,
F. CLARK.

Direct, 841 Washington St.,
Care John Clark, *Boston.*

Endorsed,
Jas. H. Causten, Esq.,
Washington City, D. C.

No. 9, *a.*

(Copy.) WASHINGTON, Jan. 4, 1843.

FERDINAND CLARK, Esqr.,
New York.

DR. SIR—Since my last respects of Nov. 10, I am without your attention.

The prospects of the claims against Mexico has greatly brightened, and seems to call for your action. The Mexican government proposed to ours (as communicated by a special messenger, about three weeks ago), a new convention for the adjustment and final settlement of all our claims, as well those left undetermined by the convention of 1839, as those not embraced therein, and through a special messenger, who left this for Mexico some six days ago, our government has acceded thereto.

In one of your early letters to me on the subject of your claim for the Louisiana, you state that further papers in support of the claim must be drawn from Mexico, and requested me to designate what would be wanting. It is only upon a thorough examination and arrangement of the proof for trial, that the defects in the proof can be ascertained; and the case can only then be satisfactorily suggested, the points designated, and the form prescribed; this presumes necessity, and hazards of conveyance, and also against the pressure of other business. When you are prepared, as set forth in my letter of Nov. 10th, you will also find me prepared to execute your wishes.

With much respect,
Your most ob't s'vt,
(Signed) JAS. H. CAUSTEN.

No. 9.

J. H. C. No. 9.

BOSTON, Jan'y 9, 1843.

D'R SIR,—"I herewith enclose you a copy of Mr. James H. Causten's letter of the 4th inst." (see preceding letter, No. 9)," by which you will perceive that the prospects are somewhat more favorable for the claims against the Mexican Republic. I am without any of your favors. Upon receipt hereof, please return to me by private hand the papers I sent to you some time ago. You will perceive that we ought to be prepared with whatever proofs we have to procure. My health is still feeble, and my physician recommends me not to venture out until the warm weather approaches. I burnt my hands very severely in rescuing a girl from flames of fire, and

otherwise injured my health. I have the erysipelas in my left foot. I hope you are well and happy, and remain

Your friend,
FERDINAND CLARK.

Endorsed,
Charles A. Dougherty, Esq.,
Attorney at Law,
Cherry Street.
Care Capt. M. Dougherty,
170 Madison St., New York.

No. 10.

J. H. C. No. 10.

BOSTON, Feb'y 13th, 1843.

CHARLES H. DOUGHERTY, Esq.,
135 Cherry Street, New York,
Attorney at Law, New York.

MY DEAR SIR,—Since my last respects to you, my health has improved, and I hope it will soon enable me to attend to my business personally. I intended to have written to you sooner in relation to my small matters pending in New York, but my feeble state of health precluded the possibility. I probably shall be enabled to visit New York as soon as the warm weather approaches, which will not be earlier than May. I have the liver complaint, erysipelas, and am troubled with night spasms.

I notice by L. S. Hargous, Esq., letter of the 14th Nov. ultimo, that he appears unwilling to make the deduction of 24*s.* in his bill of 40*s.* for a copy of the protest of your father in the case of Louisiana. I beg to say, that I have much experience in matters of the Consulate of the U. S. in the Havanna during the last 23 years, having been in the office, and had almost weekly transactions with it of the kind. The regular charge in the Havanna for extending Captain's protest was $34; the copies, with consular certificates of the same, were 8½ to $17. I never remember of ever being taxed more. As proof of this, you can inquire of Spefford & Tileston, Moses Taylor and others, who are engaged in the Havanna line of packets, and I must believe that Mr. Hargous labors under a mistake, in supposing he would ever ask a higher rate than is customary at other consulates; and however he may be disposed to render you the abatement, I hereby notify you that I will not pay his bill.

Y'rs respectfully,
FERDINAND CLARK.

No. 11.

No. 11.

BOSTON, January 10, 1843.

JAMES H. CAUSTEN, Esq.,
Washington City, D. C.

D'R SIR,—I wrote you yesterday, to which please be referred. I answered your letter of the 10th Nov. ult. upon the receipt thereof. I have not been to New York since June last. I hope shortly to hear from Michael Dougherty, of New York, on the subject of the Louisiana. I am very anxious to hear from you respecting the claim of Spanish brig Conde de Villanueva, and hope the money may be refunded to me this session of Congress. Can you inform me the reason James Calhoun of the Havanna has been changed. During the consulship of Mr. Trist, I had much hardship in protecting our countrymen from abuse and persecution, and suffered great injury and wrong myself by (Trist's) ungentlemanly and unmanly behavior as an American representative; and although I many times represented all the circumstances to our Government, I believe the influence opposed to me has thus far been too powerful, and therefore it would probably be useless for me to even attempt to ask any office in the Spanish dominions. Nevertheless, at some future day, when my merits are better known and appreciated, doubtless I shall obtain my justice. Will you please look out for me? My 23 years' residence in the Havanna has given me a thorough knowledge of the Spanish Government, etc. I suppose to procure any lucrative office under our Government, an applicant ought to have great political influence, which I do not possess at present. I have been a skilful merchant, and never failed in business, although I lately suffered a considerable loss by a plot in New York, called conspiracy against me. One of the party absconded with a large amount of my money just before I reached New York from the Havanna. What probability is there of the Bankrupt Law being revoked this session of Congress? A few months ago, in rescuing a girl from flames of fire and instant death, I burnt my hands severely, and otherwise injured my health; and have the erysipelas on my foot, confines me to the house, and my physician recommends me not to venture out until the warm weather approaches. Mr. Cox had charge of a lawsuit for Capt. A. Wendall against Trist. Can you give me any information in relation thereto?

I am, very truly,
Your mo. ob'dt s'vt,
FERDINAND CLARK.

When is it probable the Republic of Mexico will send their commissioners to adjust and settle the claims of American citizens to Washington City? and has the umpire, if any, been named?

Please tell me who is at present the American consul at the Havanna.

No. 12.

No. 12.

BOSTON, June 8, 1844.

DEAR SIR,—I am in receipt of your favor of the 4th inst., and am much obliged. My object in making the inquiry respecting the result of the claim against the Republic of Mexico is at present private. I am not aware that I am in any way interested in the claim (I. E.) of the schooner Felix, but my friends are. I merely desired to know whether it was decided and settled, or in litigation, ("etc.") I believe you are the agent for owners. I hope you have no objection to give the above information. I also wish you to state whether or no the commissioners of the Republic of Mexico have convened in Washington City, as you contemplated they would, for the adjustment of the residue of the American claims against that nation. I have no notice on the subject since your last. When you address me again, please give me such information as may seem to you useful in relation to the above matter, (etc.) Also please state if M. Dougherty, to your knowledge, has employed any agent in Washington for the management of his claim. He has not communicated to me for upwards of one year past. I desire you will procure and forward under cover to me, by private hand, Consul Trist's defence case, Henry Prentiss, Esq., Court Street. (I believe you deemed the claim against the U. S. government hopeless, touching the return tonnage on Spanish brig Conde Villanueva.) My health has been very feeble the last six months, but I am happy to say it is generally improving.

Yours respectfully,
FERDINAND CLARK.

P. S.—If the expected commissioners have not arrived, please state when they may be expected, or whether any other arrangement has been made by our Government with the Republic of Mexico for the adjustment of unliquidated claims.

Endorsed,
James H. Causten, Esquire,
Washington City, D. C.

No. 13.

BOSTON, Aug. 7th, 1844.

DEAR SIR,—In reference to my respects of the 8th June ult. to

you, I beg to say that I have not as yet received any reply thereto so desirable. (I should not trouble you for the information, especially whilst I was unable to make a contract under your proposal in future belonging at that time, and, moreover, I presumed it but little trouble to answer that part of my letter which touched on the business which you had a thorough knowledge of, viz., the old claim against the Government of the United States for tonnage duty on Spanish brig Conde de Villanueva, 1837. This case, you last wrote, was hopeless. You did not state why you deemed it hopeless. I understood the case of the schooner Filex, under your charge, had been reached by the Court prior to Feb'y, 1843, and decided, and, consequently, I did not then think you could had any objection to allow me the privilege of knowing the result, and I hope you will, as early as possible, give me the information, as also I am solicitous of ascertaining if any arrangement has been made, or being made, with the Republic of Mexico for the adjustment of the claims of citizens of the U. S. I shall have much pleasure in confiding to your management any business I may have at Washington City, and remain,

Dear Sir,

Yours most truly,

F. CLARK.

To JAS. H. CAUSTEN, ESQ.,
Washington City.

No. 14.

No. 14.

WASHINGTON, Jan'y 4, 1842.(3)

CAPT. MICHAEL DOUGHERTY,
New York.

DEAR SIR,—At the last hour of the sittings of the late Board of Commissioners, under the convention with Mexico of 1839, Ferdinand Clark, Esqr., transmitted to said board (and invited my attention thereto), a mass of proof in relation to his claim (and probably to your claim also), on account of the Schooner Louisiana, of which you were the master. The case laid over of course. A new state of things exists now, which points to immediate action, and to ultimate success, of which I have this day advised Mr. Clark, but fearing he may be absent, I also drop a line to your good self.

I wrote to Mr. Clark on it, 10th Nov. last on the subject, but as he did not reply since, I think he must be absent; if not so, he will submit to you said letter.

The Mexican Government having proposed to ours a new conven-

tion for the final settlement of all undecided claims, and our Government having through a special messenger to Mexico, a few days ago, acceded thereto, the way is open for the admission of the claims on account of the Louisiana, and the propriety of a thorough examination of the proof in her case, with a view to a timely cure of any defects therein, is too obvious to require remark. The benefit of the convention of 1839 was lost by deferring the claim till the last hour, and this showed full admonition not to subject it to the same result by delay.

With much respect,
Yr. most ob. ser't,
JAMES H. CAUSTEN.

No. 15.

J. H. C. No. 15.

BOSTON, Feb'y 27, 1845.

DEAR SIR,—I am desirous of hearing from you. I also wish the papers that you returned to me; please forward them by private hand, as early as possible. Have the Mexican Government appointed Commissioners for the adjustment of the American claims? Please direct to the care of Mr. Henry Prentiss, No. 84 Court Street, Boston.

Yours respectfully,
FERDINAND CLARK.

CHARLES H. DOUGHERTY, Esq.,
Attorney at Law, N. Y.

P. S. 28 Feb'y.

P. S. 28 Feb'y.

Yesterday I saw Francis M. Dimond, Esqr., of Vera Cruz, who is the Am. consul there, and who embarks from here for that place, on Monday next; therefore, and in case you have any commands for him, please communicate them seasonable. Mr. Dimond informs me, that he examined all the proceedings regarding the seizure, &c., of the L. and found them favorable to the claim!!!

Endorsed,
Charles H. Dougherty, Esq., Attorney at Law,
Care Captain Michael Dougherty,
Madison Street, New York.

No. 16.

J. H. C. No. 16.

BOSTON, June 23, 1845.

Brother CHARLES H. DOUGHERTY, Esq.,
Attorney at Law, New York.

DEAR SIR,—The present serves to acknowledge the receipt of your favor of the 18th inst., together with its enclosing, viz., the papers which I sent you some time ago, for which I am greatly obliged for their safe return. At the time I forwarded them to you, I had not the time to take a copy. I notice your remark regarding the proper time to place the papers in the hands of a competent agent, whenever a new convention shall be appointed for the adjustment of the claims. Therefore, I shall be pleased for the perusal of the document which you received from Vera Cruz, and to have an understanding regarding the presentation of any additional proofs that may be required, so that we may be prepared for whatever course that may be adopted by the respective Governments for the settlement.

I had supposed that you would have been here last week to the celebration of the I. O. of O. F. It was a splendid procession!!! Perhaps you will soon make a visit here I shall be glad to see you; please state if you are still engaged in the law business.

N. Y. City, place, &c. I am, d'r sir,
Y'rs in L. T. and F.
FERDINAND CLARK.

N. B.—Your package was rec'd through the post-office.

No. 17.

J. H. C. No. 17.

BOSTON, MASS., Dec. 10, 1845.

CHARLES H. DOUGHERTY, ESQ.,
Attorney at Law,
New York.

DEAR SIR:—Not having before me the date of my last letter to you, and unable to refer to it here, I write now principally to say, that by the message of the President, I have reason to expect that speedy measures will now be adopted for the adjustment of all the remaining claims of American citizens against the Republic of Mexico, and in view of what has been already done, it is necessary that the residue of unfinished documents should not only be prepared

but immediately presented, to accompany those already delivered to the Secretary. You have not favored me with a copy of the papers you received from Vera Cruz, nor have you stated whether or no yet received the evidence from Jose M. Fernandez and others, of Havanna. I shall be glad to hear from you as early as practicable upon this subject; interim

I remain, very truly,
Your very ob't serv't,
FERDINAND CLARK.

P. S.—I have not received any communication from you since you returned me the lent papers of James H. Causten.

No. 18.

J. H. C. No. 18.

BOSTON, June 10, 1845.

DEAR SIR:—However strange it may appear to you, for receiving so many letters from me without your answering any of them, I am constrained to say, that necessity compels me to desire you to return to me the documents I loaned you, and if you send them by Hales Co.'s express the postage will be light; or perhaps you could spare a day and come here, and if you could come here at once I will pay ½ your passage, and no doubt the business I can give you, will pay you well for a few days here.

I remain,
Your obe't serv't,
F. CLARK.

CHARLES H. DOUGHERTY,
Care Capt. M. Dougherty,
Madison Street, New York.

J. H. C. No. 19.

BOSTON, Dec. 19, 1845.

DEAR SIR:—I last addressed you on the 15th inst., by private hand; since then I have received two letters from James H. Causten, Esq., of Washington City, by which I perceive he had lately written to your father concerning the claim for the Sch'r Louisiana, upon which subject he has written to me, and urges the necessity of the completion and presentment of the proofs which the claim requires, having, as he states, recently examined the documents we laid before the Board of Commissioners, Feby., 1842, and as it seems probable, from appearances of matters between our Gov't and Mexico, that negotiations are in progress for political arrangement and adjustment of the claims of our citizens against the Republic, I recommend

that all such documents as are prepared, and indispensable proof in support of the claim, be forthwith transmitted to the Board of Commissioners through the proper channel, to accompany the documents filed Feby., 1842.

I have not made any arrangements with James H. Causten, Esq., by reason that you did not think any necessary, before a new convention was appointed for the settlement, but it appears to me that it is now time that an agent should be engaged, especially as I have every reason to believe that our Gov't will eventually assume the payment of all awarded claims against Mexico that may be due to our citizens. Mr. Causten has great experience in similar claims, having been engaged in agencies for upwards of 20 years, and is considered skilful. I, therefore, think he is entitled to the preference, on equitable terms, upon which subject I shall expect to hear from you, and as early as possible. You stated yeu had received consular certificate of the protest and other documents from Vera Cruz, and had written Don Jose M. Fernandiz, of the Havanna, for proofs, and doubtless you are already in possession of all the evidence the case requires. You probably recollect that Mr. Causten sent to *me* a list of all the claims of our American citizens against Mexico that he had the agency, and all that had been before the board were awarded by our Commissioners in their favor. The Schooner Felix was one which was captured at the same time with the Louisiana, as I understood your father, the same was not allowed by the Mexican Commissioner, and the umpire had not decided when the board adjourned Feby., 1842.

The American Consul, Francis Dimond, Esq., of Vera Cruz, was in this city, summer 1844, and informed me that he had examined the record, and was satisfied that the claim against Mexico was one of the best!!! You have the documents, and are able to judge if any additional evidence is needed in the premises.

As I stated a long time ago, I have some claims, as also a friend of mine, which, if you had time to devote to them, it might result to your advantage; perhaps you could spare a few days to visit this city, when I might explain them to you. Where is your father? When you address me, please direct to the care of Messrs. Field & Gould, Roxbury, Mass. I am most of the time in the country for the benefit of my feeble health.

I am, with respect,
Y'rs mo. truly,
F. CLARK.

Care Jos. H. Stewart & Chas. Bassell,
Lawyers, in New York.
Endorsed—Charles H. Dougherty, Esq.,
Attorney-at-law, New York.
Care Mich'l Dougherty, Madison St.

1852.

UNITED STATES OF AMERICA,
District of Columbia.

U. S. Circuit Court, March Term, 1852.

B. C. CLARK et al.
vs.
FERDINAND CLARK.

Complainant's Evidence.

Plaintiff's Interrogatories.

Interrogatories to be propounded, on the part of the plaintiff, to Albert K. Hatch, of Portsmouth, in the State of New Hampshire.

1. What is your age, occupation, and residence? If you say that you are a clerk of the United States District Court for the District of New Hampshire, how long have you held that office?

2. Will you state whether there be in the records of the United States District Court of the District of New Hampshire, any record of Rules in Bankruptcy? If yea, please annex a copy.

3. If there be no Rules in Bankruptcy recorded, and there be any record relating to such rules, please annex a copy of such record?

4. Were there any rules of said Court to regulate the proceedings in bankruptcy,—if yea, in what manner were they made known to the counsellors-at-law practising in said Court?

5. Will you examine the printed matter annexed to the deposition of Lory Odell, Esqr., taken in this case, and state whether it is or is not the rules of said Court in bankruptcy?

C. G. RIPLEY, *For Pl'tff.*

Deposition of A. R. Hatch.

I, Albert R. Hatch, of Portsmouth, in the County of Rockingham, and State of New Hampshire, counsellor-at-law, of lawful age, on oath, depose and say in answer to the foregoing interrogatories as follows, viz.:

To the first interrogatory I answer, I am thirty-four years old, I am a counsellor-at-law, and I live in Portsmouth, in the State of New Hampshire; I hold the office of clerk of the District Court of the United States for this District, and have held it since August, 1848.

To the second Interrogatory I answer, I find in the records and on the dockets of the Court, certain rules in bankruptcy, copies of

which, with the date of their adoption, are hereunto annexed, marked (A., B., & C.), (copied respectively at p's 270, 271, also 275).

To the third interrogatory I answer, the papers hereto annexed, marked (A., B., & C.), are all the records I have found relating to the subject, and I have carefully searched the records of the Court.

To the fourth interrogatory I answer,—Immediately after the Bankrupt Act went into operation, a printed pamphlet, entitled Rules and Regulations in Bankruptcy, adopted by the District Court of the United States for the District of New Hampshire, January 24, 1842, was circulated among the attorneys and counsellors practising in said Court, and afterwards a printed sheet, entitled "Additional "Rules and Regulations in Bankruptcy adopted by the District "Court of the United States for the District of New Hampshire, "July 20th, 1842," and still later, a printed paper, entitled "Additional Rules in Bankruptcy adopted by the District Court of the United States for the District of New Hampshire, January 18, 1843, were, about and after their respective dates, in like manner circulated among the attorneys and counsellors practising in said Court. All the practice in said Court, under the Bankrupt Act, was governed by the rules contained in said pamphlet and printed papers. They were referred to very frequently in Court, and by the Court, and were uniformly treated and acted upon as the rules of the Court. I practised considerably in said Court as a counsellor-at-law, under the Bankrupt Act, during all its continuance, and as long as any practice continued under that act, and I always guided myself by said rules, and cited them in Court whenever I had occasion.—I never heard their authenticity denied or doubted.

To the fifth Interrogatory, I answer, I have examined the printed papers annexed to the deposition of Lory Odell. They are the same referred to in my last answer, and I have no doubt they were, from their respective dates, and still are the rules of said Court, in bankruptcy, and I have no doubt that the rules contained in the pamphlet annexed to said Odell's deposition, contained the printed rules referred to in the paper hereunto annexed, marked (*A*).

ALBERT R. HATCH.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me, a Justice of the Peace, within and for said County, at my office in Portsmouth, in said County, on the seventeenth day of May, A.D. 1852, the above-named Albert R. Hatch; and he then and there being duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him as above, gave the foregoing answers, which were reduced to writing by me in his presence, and subscribed by him in my presence.

After said answers had been duly written and subscribed, said deponent again swore that his said answers contained the truth, the whole truth, and nothing but the truth, relative to the matters inquired of in the foregoing interrogatories.

SAML. STORER, *Justice of the Peace.*

Which deposition is thus endorsed:—

"Deft. will not ×."

R. CHOATE & BROTH.

A.

At a special District Court of the United States, begun and holden at Portsmouth, within and for the District of New Hampshire, on the ninth day of February, Anno Domini, one thousand eight hundred and forty two,

Present, Hon. MATTHEW HARVEY,
Judge of said Court,

Ordered, that certain rules and regulations published under direction of the Court, be established and remain in force in all proceedings in Bankruptcy, in this district.

Attest,
JOHN L. HAYES, *Clerk.*

B.

At a District Court of the United States, begun and holden at Concord, within and for the District of New Hampshire, on the 20th day of April, 1842,

Present, Hon. MATTHEW HARVEY,
Judge of said Court,

Ordered, that proof of notice in two papers be sufficient to entitle a petitioner to a decree of bankruptcy, although notice has been originally ordered in three papers.

Attest,
JOHN L. HAYES, *Clerk.*

C.

At a District Court of the United States, begun and holden at Exeter, within and for the District of New Hampshire, on the third Tuesday of December,

Present, the Hon. MATTHEW HARVEY,
Judge of said Court,

Ordered, that the following oath be administered to the Jury, in trials in bankruptcy:

You solemnly swear, well and truly to try the issue between A. B., a bankrupt, and C. D. his creditor, whether the said A. B. is entitled to his discharge and certificate as a bankrupt, and to give a true verdict according to the evidence.

So help you God.

The following additional rule in bankruptcy was established:

Ordered, that hereafter no report be received from an assignee making an assignment of property to a bankrupt according to second section of Act of Congress, establishing a uniform system of Bankruptcy throughout the United States, unless it appear that the assignee has been sworn to the faithful and impartial discharge of his duty.

Attest,
JOHN L. HAYES, *Clerk.*

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court, March T., 1852.

B. C. CLARK, et al.
vs.
FERDINAND CLARK.

Interrogatories to be proposed on the part of the plaintiff in said cause to Lory Odell, of Portsmouth, New Hampshire.

What is your age, residence, and occupation?

Where did you reside and what was your occupation between January 1, 1841, to January 1, 1846?

Please state whether you were in practice in bankruptcy in the United States District Court for the District of New Hampshire as a Counsellor at Law at any time; if yea, where, and how long?

Have you knowledge of the rules which were adopted by said Court to regulate proceedings in bankruptcy? If yea, will you annex a copy of said rules?

(Objected to as incompetent.)

If you know of any practice in said Court in violation of any of said rules, please state the same?

(Objected to as incompetent.)

C. G. RIPLEY,
For Pl'ff.

I, Lory Odell, of Portsmouth, in the County of Rockingham and State of New Hampshire, Counsellor at Law, of lawful age, on oath,

depose and say, in answer to the foregoing interrogatories, as follows, viz.:

To the first Interrogatory I answer, I am fifty years old; I reside in Portsmouth, New Hampshire, and am by profession a lawyer.

To the second Interrogatory I answer, I resided in Portsmouth, and practised my profession.

To the third Interrogatory I answer, I practised in said Court from the time the Bankrupt Act went into operation, until July, 1849, when I was appointed Collector of the Customs at said Portsmouth.

To the fourth Interrogatory I answer, I obtained from the Clerk of said Court copies of its said rules and regulations in bankruptcy, as they were established by said Court, which I hereto annex.

To the fifth Interrogatory I answer, I have no recollection of any practice of said Court in violation of said rules.

LORY ODELL.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me, a Justice of the Peace within and for said county, at my office in Portsmouth, in said county, on the seventh day of April, A.D. 1852, the above-named Lory Odell, and he then and there being duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him, as above, gave the foregoing answers, which were reduced to writing by me in his presence, and subscribed by him in my presence.

After said answers had been duly written and subscribed, said deponent again swore, that his said answers contained the truth, the whole truth, and nothing but the truth, relative to the matters inquired of in the foregoing interrogatories.

SAML. STORER,
Justice of the Peace.

The above deposition of L. Odell was thus endorsed:
"Def't not cross."

Agreement of Counsel.

By an agreement of the solicitors in this cause, in lieu of the full exhibit of rules and regulations in bankruptcy, mentioned in the deposition of L. Odell, the following extracts therefrom shall take the place of said exhibit in this record.

Appointment of Assignee, &c.

General Rules, &c., passed Jan. 24, 1842.

8. As soon as conveniently may be after the decree declaring the

party a bankrupt under the Act of Congress shall have passed, or, if appealed from, as soon as the appeal is finally disposed of in the manner prescribed by the act, the Court will proceed to the appointment of an assignee of the bankrupt's estate, who, however, shall not be entitled to enter upon the duties of his office, until he has given bonds in the name of the United States, with two or more sureties, in such sum as the Court shall direct, to be approved by the Court, for the due and faithful discharge of all his duties, and his compliance with the orders and directions of the Court. All such bonds given by assignees shall be deposited in the clerk's office, subject to the order of the Court. Every appointment of an assignee by the Court shall be open for reconsideration, upon the petition of the bankrupt, or of any one or more of the creditors, upon due cause being shown therefor to the Court, and on notice thereof given to the assignee, in the manner prescribed by the Court; and the assignee will be confirmed or removed, according as the Court, upon the hearing of the parties, shall decide to be required by the justice of the case, and the rights of the parties interested in the estate.

Examination of Bankrupt.

10. Whenever the assignee or any one or more of the creditors, who shall have proved their debts or other claims, shall, by petition, apply to the Court for an examination of the bankrupt, on oath or solemn affirmation, touching any and all matters relating to such bankruptcy, and his acts and doings, and his property and rights of property, or the Court, of its own mere motion, shall deem such an examination necessary and proper for the purposes of justice, the Court will order and direct the baukrupt to appear, at a time and place assigned for that purpose, before the Court, or before any Commissioner appointed by the Court therefor, then and there to submit himself to such examination, orally or upon written interrogatories, touching all or any such matters, notice thereof to be given to the said Bankrupt, in such manner as the Court shall appoint, at least ten days before the time appointed therefor, and if the Bankrupt shall fail to appear, and submit himself to such examination, at the time and place appointed therefor, or shall refuse fully to answer all such oral or written interrogatories, and no sufficient cause shall be shown to the Court to justify or excuse him in the premises, and the Court shall not enlarge the time, or appoint another time therefor, the Bankrupt shall be deemed guilty of a wilful refusal and disobedience, and non-compliance with the order and direction of the Court, and shall in the farther proceedings in bankruptcy be dealt with accordingly.

Ibid.

11. Any creditor or creditors who have proved his or their debts or other claims, as well as the assignee, shall be entitled to appear at such examination, and under the direction of the Court or the Commissioner (as the case may be), may put any question, either orally or by written interrogatories, to the Bankrupt, touching any matter or matters in Bankruptcy as aforesaid, which question the said Bankrupt shall be bound to answer, fully and clearly, and without evasion or equivocation, and the examination examination may be adjourned from time to time until completed, as the Court or Commissioner shall deem fit and proper, for the purpose of justice.

Notice and Hearing.

12. Every application by any Bankrupt for a discharge and certificate of discharge from his debts, proveable under the Act, shall on petition be filed in the clerk's office, in substance, in the form hereinafter prescribed—notice whereof, and of the order of the Court thereon, for the hearing thereof, at least seventy days before the day appointed therefor, shall be published in some newspaper printed in the district, and designated by the Court, and also, where the residence of any creditor who has proved his debt or other claim is known, notice thereof shall be given by a service on him, personally or by a printed letter, signed by the clerk, and addressed to him at his known and usual place of residence, in the form hereinafter prescribed, and in the mode hereinafter prescribed, unless the Court shall in its discretion otherwise direct, having a regard to the circumstances of any particular case, so that all creditors who have proved their debts, and all other persons in interest, may appear at the time and place assigned for their hearing, and contest the right of the Bankrupt to such discharge and certificate, and unless the Court shall otherwise direct as aforesaid, where such notice shall be by letter, it shall be in the form hereinafter prescribed (copied, p. 283), and if the creditor lives in the place where the District Court is holden, the service, if personal, shall be by the delivery of a printed copy thereof, to the creditor personally, or by leaving the same at his known usual place of residence, at least ten days before the hearing. But if the creditor resides in any other place, then the service shall be by a printed copy of the letter signed by the clerk, and sealed and sent by the mail, addressed to such creditor, at his known usual place of residence, at least thirty days before the hearing. In each case the service shall be made by the Marshal of the District, or his deputy (unless otherwise specially directed by the Court), who shall make due return of his doings therein forthwith, and as soon

as may be practicable, provided, that no discharge or certificate thereof, or hearing thereon, will be had by the Court, until after ninety days from the decree in bankruptcy.

Sales or Transfers.

16. No sales, transfers, or other conveyances conveyances of the Bankrupt's property or rights of property, shall be made by any assignee except at such times and places, and upon such terms as shall be appointed and ordered by the Court, upon a petition filed for that purpose. Such petition may be filed by the Bankrupt, or by any creditor who has proved his debt or claim, or by the assignee, or by any other person in interest, in the clerk's office, and thereupon the Court will assign a suitable time and place for the hearing thereof, and a suitable notice of the same by publication in some newspaper, printed in the District, designated by the Court, at least ten days before the hearing, so that all persons in interest may appear, and show cause, if any they have, why the prayer of the petitioner should not be granted.

Clerk to endorse Papers.

23. All papers in Bankruptcy filed in the Clerk's office shall be endorsed by the Clerk, with the date of the receipt thereof, and a brief memorandum of the nature and object of the paper, and folded as near as may be in a uniform manner.

Petition for Sale.

9. Petition of Assignee to sell Bankrupt's Estate.

To the Honorable the Judge, &c.

Respectfully shows —, of —, assignee, of the estate of —, of —, declared by this Court as a bankrupt; that the said —, at the time of his bankruptcy, was seized and possessed of the estate and property in the schedule hereto annexed, marked A, specially set forth; that it will be for the benefit of the said estate, and all parties having interest therein, that the same should be sold, transferred, and assigned. Wherefore, the petitioner prays the Court to pass an order for that purpose, according to the provisions of the Act of Congress.

(Signed.)

Mem.—The like form in substance, *mutatis mutandis*, is to be followed in cases where the assignee wishes for authority to com-

pound debts, or to redeem estates mortgaged or deposited, or on which there is a lien, or where the application is by the bankrupt, or any creditor or other party in interest.

Order of Court.

Order thereon.

District Court, &c.

On this — day of —, on reading the petition aforesaid, it is ordered by the Court that due notice thereof be published in —, a newspaper printed at —, in said District, ten days at least before the time assigned for the hearing, and that a hearing of said petition be had at —, on —, at — o'clock, A. M., when and where all creditors, the bankrupt, and other persons in interest, may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

Clerk of the Court.

Petition for Discharge.

6. Petition by Bankrupt for his Discharge.

To the Honorable the Judge, &c.

Respectfully represents —, of —, in the County of —, and District of New Hampshire. That on the — day of —, last past, he was duly declared a bankrupt under the Act of Congress in that case made and provided; that he hath surrendered all his property and rights of property, and fully complied with and obeyed all the orders and directions of the Court touching his bankruptcy, and is ready to submit himself to any other and further examinations, orders, and directions which the Court may require. He, therefore, prays that after due notice and proceedings to be had in the premises, he may be decreed by the Court to have a full discharge from all his debts proveable under the said bankruptcy, and a certificate thereof granted according to the Act of Congress, dated this — day of —.

(Signed.)

Order for Publication.

Order thereon.

District of —, &c., on —, &c. On reading the foregoing petition, it is ordered by the Court that notice thereof be published in — newspaper, printed in —, in said District, seventy days at least

before the — day of —, when a hearing will be had on the said petition at —, in said District, at — o'clock in the forenoon; and all creditors who have proved their debts, and other persons in interest, may appear at said time and place and show cause, if any they have, why the prayer of the said petitioner should not be granted. And it is further ordered by the Court, that all such creditors whose places of residence are known, shall be entitled to a notice of the same petition and order, either personally, or by a letter addressed to each creditor, at his known and usual place of residence, attested by the Clerk of the Court, and served or left at his usual place of abode by the marshal or his deputy, or sent by the mail, whereof due proof is to be given.

Clerk of the Court.

Notice by letter to Creditor.

7. Notice by letter to Creditor.

District Court of, &c.

Take notice, that a petition has been filed in the said Court by —, of —, &c., duly declared a bankrupt, under the Act of Congress, for a discharge and certificate thereof from all his debts and other claims proveable under the Act, and that the — day of — next, at —, at — o'clock, is assigned for the hearing of the same, when and where you may attend and show cause, if any you have, why the prayer of the said petitioner should not be granted.

Clerk of the Court.

Mem.

Other forms of notices, by letter, in other cases, are to be in substance like this form, mutatis mutandis.

Additional Rules.

March Term, 1842.

1. All figures in schedules of debts and assets shall be added together, so that the amount of each may be seen.

11. If the commissioners shall certify the petition or schedule is incorrect in point of form, it shall be his duty to point out the errors, which may be corrected by a supplemental statement, sworn to before a commissioner; but no alteration shall be made in the original petition or schedule. After being corrected they will be referred to the commissioner who made the first examination, and if, after a re-examination, he shall certify the same to be corrected in point of form, and no objection being made, the petitioner shall be deemed to be a bankrupt.

Amendment.

Additional Rules,

July 20, 1842.

2. No amendment of the petition, or a schedule, or any paper annexed to the petition, shall be made, by erasure or interlineation of the original paper. But amendments may be made by motion in writing, setting forth the amendments at large, which, on being allowed by the Court, shall be noted on the margin of the paper so amended, and filed in the case.

6. Wherever, in cases not specially provided for by Act of Congress, a particular time is or shall be prescribed by the rules of the Court for notice to be given of any petition, application, or other proceeding in bankruptcy, the Court may, in its discretion, for good cause shown, enlarge, or lessen, or vary the time, whenever the rights of the creditors, or other parties in interest, may, in the opinion of the Court, seem to require it for the purpose of justice and equity.

Assignee's Return.

12. Every assignee shall make return of his doings into the Clerk's office at least ten days before the time appointed for hearing the application of the bankrupt for his discharge, and therein specify what property has been designated and set apart to the bankrupt; what property has been otherwise disposed of, and for what consideration.

All moneys received, whether for their own compensation, or for the estate, or for whatever other purpose.

All expenses, disbursements, and charges, all which shall be put, as far as practicable, in the form of an account, so as to be most readily understood.

Such return shall also state whether the assets will certainly be sufficient to pay all costs, charges, and expenses, and if not, what amount the assignee desires should be charged upon the bankrupt for his own compensation and charges.

False Return.

13. If the assignee shall have reason to believe that the bankrupt has not bona fide surrendered to him all his property, with the exceptions mentioned in the third section of the act, it shall be his duty to file a statement of that fact with the clerk, ten days previous to the time appointed for hearing the application for a discharge.

Value of $50.

18. Where it shall appear by the affidavit of the assignee that the whole value of the assets to be sold in any case does not exceed fifty dollars, a sale and transfer thereof may be authorized without any previous order of notice.

Assignee's Report Referred.

Additional Rules.

January 18, 1843.

1. Every assignee's report made, and returned according to the 12th Rule of June 20th, 1842, will be referred to some commissioner in Portsmouth for his examination and report.

Sales and Notice.

3. All sales by assignees shall be at public auction, within six months of the date of the order, and at such intermediate times and places as in the opinion of the assignee will best promote the interest of all concerned, after reasonable notice of such sale has been given, either by posting up, or inserting the same in some newspaper, at least ten days before the sale of personal estate, and fifteen days before the sale of real estate.

Defendant's Evidence.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

B. C. CLARK et al.
vs.
FERDINAND CLARK.

Defendant's Interrogatories.

Interrogatories to be proposed to William P. Moulton, John Sullivan, John Kelley, T. W. Dearborn, Henry F. French, John F. Porter, Charles Conner, George Gardiner, all of Exeter, in the State of New Hampshire, witnesses to be examined on behalf of the defendant in the above entitled suit.

1. What is your name, age, occupation, and place of residence?

2. Did you know John Palmer, of South Hampton, in the State of New Hampshire, now deceased, and how long did you know him, and were you acquainted with his handwriting, and the extent and means of your knowledge?

3. If you say you are acquainted with his handwriting, state whether or not the general signatures upon the paper hereto annexed, marked A., purporting to be his, are in his handwriting?

4. What was the character of said Palmer for veracity, probity, and honesty; and in what estimation was he held by his fellow-citizens, and did he hold any, and what offices of trust and responsibility in his lifetime?

(4th objected to as irrelevant.

W. H. GARDINER, *For Pl'tff*).

5. Did you know John Kimball, of said Exeter, now deceased, and how long did you know him, and were you acquainted with his handwriting; and the extent and means of your knowledge?

6. If you say you are acquainted with his handwriting, state whether or not the signature upon the paper annexed, marked A., purporting to be his, is in his handwriting?

7. What was the character of said Kimball for veracity, probity, and honesty? and what estimation was he held in by his fellow-citizens? and did he hold any, and what offices of trust and responsibility in his lifetime?

(7th objected to as irrelevant.

W. H. GARDINER, *For Pl'tff*).

UNITED STATES OF AMERICA,
District of Columbia.

U. S. Circuit Court. March Term, 1852.

B. C. CLARK et al.
vs.
FERDINAND CLARK.

Plaintiff's Cross-interrogatories.

Cross-interrogatories to be proposed on the part of the plaintiff, not waiving their objections to the interrogatories of d'f'ts, to William P. Moulton, John Sullivan, John Kelley, L. W. Dearborn, Henry F. French, John F. Porter, Charles Conner, George Gardiner, of Exeter, in the State of New Hampshire, witnesses to be examined on the part of the def'ts in the above cause.

1. If you have stated, in answer to the second direct interrogatory, that you were acquainted with the handwriting of the said John

Palmer, please to state how many times, as nearly as you recollect, you have seen said Palmer write his name, and whether at such times you paid particular attention to the circumstance, if so, how particularly you observed the same?

2. State whether, so far as you recollect, said Palmer's manner of signing his name was always or generally the same, or varied at different times, and whether the said Palmer was a person who wrote much, and had frequent occasion to sign his name, or had otherwise.

3. If you shall have acknowledged the third cross-interrogatory in the affirmative, please to reconsider your said answer, and examine the signature of John Palmer, assignee, subscribed to the bill of sale contained in said paper, and the said signature written in the margin of the schedule *B.*, contained therein, and the said signature written on the margin of the paper headed, Copy Schedule A. (copied at p. 81, and B., at p. 63), referred to in the annexed petition, and compare the two first-named signatures with the last-named,—declare whether you do not see a difference between the said first-named signature and the last-named signature, and whether you are able and willing to state upon oath, that the all three signatures were written by the said John Palmer, and if not, which of the three do you mean to swear to as his?

4. If you answer the fifth interrogatory in the affirmative, please to tell how many times you remember to have seen said Kimball write his name, and if, at such times or any of them, you observed his signature, and why you did so?

C. G. RIPLEY, *For Pl'tff.*

B. C. Clarke et al. *vs.* Ferdinand Clarke.

Moulton's Deposition.

Answers made by Wm. P. Moulton, to the interrogatories and cross-interrogatories hereto annexed.

Answer to 1st Interrogatory.

My name is Wm. P. Moulton; occupation, Secretary of Atlantic and Rockingham Mutual Fire Insurance Company; residence, Exeter, N. H.; age, thirty-one.

Answer to Interrogatory 2d.

I was well acquainted with John Palmer, formerly of South Hampton, N. H., now deceased; I was intimately acquainted with him I think about three years, and was acquainted with his handwriting, having assisted him at various times in the business of his office, as Secretary of the Farmers Mutual Fire Insurance Company, at said Exeter, and was his successor to said office.

Answer to Interrogatory 3d.

The several signatures of John Palmer to the schedule marked A, and purporting to to be in the handwriting of said Palmer, I believe to be in his own handwriting, and likewise the bill of sale which composes part of said schedule marked *A*. is in said Palmer's handwriting, and and all of the signatures (on the several papers accompanying said schedule marked A) of said John Palmer, I believe to be in said Palmer's handwriting, and I have not the least doubt that each and all of said signatures are the true signatures of said Palmer, and in his own handwriting.

Ans'r to Interrogatory 4th.

Said Palmer's character for veracity, probity, and honesty, was good, and he was a man highly esteemed by all who knew him. Being a man of general business habits, and possessing the entire confidence of the community in which he lived, he was very frequently called upon to administer upon estates of deceased persons, and to act in the capacity of guardian to minors. He was long a Jastice of the Peace for the County of Rockingham, and for several years prior to his death was Secretary and Treasurer of the Rockingham Farmers Mutual Fire Insurance Company, an institution established at said Exeter, and one of the largest and most flourishing Insurance Companies in the State where the same is located.

Ans. to 5th Interrogatory.

I was well acquainted with John Kimball, late of said Exeter, and now deceased, and was acquainted with him from my youth up to the time of his death (say 20 years), and was well acquainted with his handwriting. Mr. Kimball was President and Director of said Rockingham Farmers Mutual Fire Insurance Company at the time I was appointed Secretary of said Company, and for several years previous to that time, and continued as President and Director of said Company for some time after I was appointed Secretary thereof.

The signature of John Kimball on the paper marked *A*, and perporting to be his signature, I have no doubt is in said Kimball's own handwriting.

The character of said Kimball for veracity, probity, and honesty, was highly reputable, and he was a man highly esteemed by his fellow-citizens. He, Kimball, was a man that held various offices of honor and responsibility during the course of his long and useful life. He was a selectman of Exeter for a long term of years (I think 15 years); was for a long time a Justice of the Peace for the County of Rockingham, N. H.; was a President and Director in said Rockingham Farmers M. Fire Insurance Company for several years, besides many other responsible and honorable offices, which he was frequently called upon to fill.

Answer to Cross-Interrogatories.

Ans. to Interrogatory 1st.

I have seen John Palmer write his name a great number of times,

and have seen his signature on paper in the office of said Insurance Company almost daily for a period of three years, and have collected money on various assignment receipts signed by him.

Ans. to Interrogatory 2d.

Said Palmer was very uniform in his signature, and he was a man much accustomed to writing, and had occasion to write his name often.

Ans. to Interrogatory 3d.

I have re-examined the signature of John Palmer on schedule marked A, and accompanying papers, and compared the two first signatures with the last, and perceive a slight difference in the writing of the two signatures, but do not consider such difference so great as men who are much accustomed to writing will make in subscribing their names at different times, and have no hesitation in swearing that all three of the signatures aforenamed, are the signatures of said Palmer, and in his own handwriting.

Ans'r to Interrogatory 4th.

I have seen John Kimball write his name a great many times. In issuing policies of said company, his name and my own were required to every policy issued during the time he was President of said company, after my appointment as Secretary thereof.

WM. P. MOULTON.

ROCKINGHAM, *ss.*
March 18, 1852.

Personally appearing the above-named W. P. Moulton, and made oath that the above deposition by him signed, contains the truth, the whole truth, and nothing but the truth, relative to the cause for which it is taken.

Before me,
A. WOOD,
Justice of Peace.

Answers of J. Porter.

B. C. CLARK et al. *vs.* FERDINAND CLARK.

Answers of Joseph F. Porter to the interrogatories and cross-interrogatories hereto annexed.

Ans'r to 1st Int'y.

My name is Joseph F. Porter; my age thirty-six years; occupation merchant; and resident of Exeter, in the County of Rockingham.

Ans'r to 2d Int'y.

I knew John Palmer, of South Hampton, in the State of New Hampshire, now deceased; I knew him over twenty years; went to

school to him. I was acquainted with his handwriting; saw him write a number of times. He married my sister.

Ans'r to 3d Int'y.

The several signatures of John Palmer upon the paper hereto annexed, I have no doubt are the handwriting of said Palmer, and written by him.

Ans'r to 4th Int'y.

The character of said Palmer for veracity, probity, and honesty, was good, and was held high in the estimation of his fellow-citizens. He was a representative from South Hampton two years or more; Secretary of the Insurance Company at said Exeter, and was guardian for several minors at different times, and settled many estates of deceased persons.

Ans'r to 5th Int'y.

I knew John Kimball of said Exeter, deceased; have known him from my boyhood. I had seen Kimball's handwriting upon papers.

Ans'r to 6th Int'y.

I have no recollection of ever seeing him write.

Ans'r to 7th Int'y.

The character of said Kimball for veracity, sobriety, and honesty, was good; he was held in high estimation by his fellow-citizens; he was representative from this town, and held many important and responsible offices.

Answers to Cross-interrogatories.

I have seen him, said Palmer, write his name a number of times; would not wish to state the precise number. I have seen him write his name enough to testify confidently. I do not recollect of taking particular notice when he wrote his name, at any time.

Ans'r to 2d Int'y.

I think his handwriting did not vary much; generally the same; he was a man who wrote a good deal, and had occasion to sign his name often. He moved, I think, to this town in 1845, and was Secretary of the Fire Insurance Company; moved from South Hampton here.

Ans'r to 3d Int'y.

I have re-examined the said signatures, and though there is a small difference between the two first and last, owing to a difference of paper, as I think, yet I have no doubt that all of them were written by him, and are his signatures.

JOS. PORTER.

ROCKINGHAM, *ss.*
March 18, 1852.

Personally appeared the above-named Joseph Porter, and made oath that the above affidavit by him subscribed, contains the truth,

the whole truth, and nothing but the truth, relative to the cause for which it is taken.

Before me,
A. WOOD,
Justice of Peace.

Answer of J. Sullivan.

I, John Sullivan, of Exeter, in the County of Rockingham and State of New Hampshire, depose and give true answers to the interrogatories and cross-interrogatories hereunto annexed.

Answer to Interrogatory

1st. My name is John Sullivan; I am more than fifty years of age; my occupation a lawyer, and my place of residence is Exeter aforesaid.

Answer to Interrogatory

2d. I knew John Palmer, late of South Hampton in said county, deceased. I knew him, I should think, six or eight years before his death, and might have known him longer. I was acquainted with his handwriting. I have seen him write depositions as a magistrate; I think I have seen him write in Probate Court; have settled accounts drawn by him when acting in the capacity of Judge of Probate. He was also Secretary and Treasurer of an Insurance Company in which I had some concern, and the books of which I have examined.

Answer to Interrogatory

3d. I entertain no doubt that the three signatures on the papers marked (A), and purporting to be signed by John Palmer, are in the handwriting of said John Palmer.

Answer to Interrogatory

4th. The character of John Palmer for veracity, probity, and honesty, was very good; he was held in high estimation by his fellow-citizens. He sustained the office Justice of the Peace for the County of Rockingham aforesaid, and the office of Secretary and Treasurer of the Rockingham Farmer's Mutual Fire Insurance Company.

Answer to Interrogatory

5th. I knew John Palmer, late of said Exeter, deceased; I think I must have known him from my childhood. I am acquainted with his handwriting; have seen surveys of lands drawn, as I believe, by him. He has settled accounts with me in the Probate Court.

Answer to Interrogatory

6th. The signature upon paper (A), purporting to be his, I entertain no doubt was written by him.

Answer to Interrogatory

7th. The character of said Kimball for veracity, probity, and honesty, was very good; by his fellow-citizens he was highly esteemed. He held in his lifetime the office of a Justice of the

Peace. He was a selectman of the town, and a Senator in the Senate of this State, I think.

Answers to Cross-interrogatories.

1st. I cannot say how many times I have seen him, the said John Palmer, write his name; and if I have seen him write it, I cannot say that I paid any particular attention to it.

Answer to Cross-interrogatory

2d. I think there was a general resemblance in his manner of writing his name, so far as I have seen his signature. I think said Palmer wrote much in the business of the various offices he sustained; must have had occasion to write his name very often.

Answer to Cross-interrogatory

3d. I have re-examined the three signatures of said John Palmer. I have compared the two first signatures with the last. The first signature is written in a little lighter hand than the last, and apparently with a more pointed pen; the second signature is in a larger and heavier hand than either of the others, but I have no doubt but that all three of the signatures were written by said John Palmer.

Answer to Cross-interrogatory

4th. I cannot call to mind distinctly any particular time when I saw said John Kimball write his name; did not see him draw the surveys of the lands, but employed him to survey the lands, and he delivered the drafts to me, and I have no doubt they were drawn by him. I have no remembrance of seeing him sign his name to accounts settled by him in the Probate Office, but have administered to him an oath that the account by him subscribed was just and true.

JOHN SULLIVAN.

ROCKINGHAM, *ss.*
March 13th, 1852.

Personally appeared the above-named John Sullivan, Attorney-General for the State of New Hampshire, and made oath that the above deposition by him signed contains the truth, the whole truth, and nothing but the truth, relative to the cause for which it is taken.

Before me,
ALVA WOOD,
Justice of Peace.

B. C. CLARK et al. *vs.* FERDINAND CLARK.

Answers of G. Gardiner.

Answers made by George Gardiner.

1st. My name is George Gardiner; am fifty years of age; occupation, merchant.

Ans'r to second Int'y.

I knew John Palmer, of South Hampton, now deceased. I knew him four or five years. I did not know his handwriting handwriting certainly.

Ans'r to 4th Int'y.

The character of said Palmer for honesty, probity, and veracity was good; he was held in high estimation by his fellow-citizens for truth and honesty; no one stood higher; he was secretary of the Farmers Mutual Fire Insurance Company, and did a good deal of probate business.

Ans'r to 5th Int'y.

I know John Kimball of said Exeter, now deceased, well; I knew him about thirty years; I was acquainted with his handwriting; did much business with him as one of the selectmen of Exeter and as a surveyor of land.

Ans'r to 6th Int'y.

The signature of John Kimball on the paper herewith annexed marked A, is his handwriting, I have no doubt of it; it is his own handwriting, I have no doubt.

Ans'r to Int'y 7th.

The character of said Kimball for veracity, probity, and honesty was good; he was held in the highest estimation by his fellow-citizens; he was senator for this district in the State legislature and representative to the same, selectman for the town for fifteen years, besides he held a number of smaller offices.

Answer to Cross-interrogatory.

Ans'r to 4th Int'y.

I have seen him write many times; have done important business with him; have taken notes from him; he has acknowledged and written deeds for me.

GEORGE GARDNER.

ROCKINGHAM, *ss.*

Mar. 18, 1852.

Personally appeared the above named George Gardner, and made oath that the above deposition by him subscribed, contains the truth, the whole truth, and nothing but the truth, relative to the cause for which it is taken.

Before me, A. WOOD,
Justice of Peace.

Answers of Charles Conner to the Interrogatories hereto annexed.

Deposition of C. Conner.

Ans'r to Interrogatory first.

My name is Charles Conner, am of lawful age, and a merchant, and reside in Exeter.

Ans'r to 2d Int'y.

I know John Palmer, formerly of South Hampton, while in this town. I cannot say I knew his handwriting.

Answer to Int'y 4.

His character for probity, veracity, and honesty was good; he was esteemed by his fellow-citizens as an upright man; held a number of offices of trust.

Answer to Int'y 5th.

I know John Kimball of said Exeter, now deceased; I knew him from my boyhood. I was acquainted with his handwriting well. I have his handwriting when he has taken acknowledgment of deeds. I think I have seen him write a number of times, but cannot state any particular time.

Ans'r to 6th Int'y.

I have no doubt that the signature of John Kimball to the paper marked A, hereto annexed, is his handwriting.

Ans'r to 7th Int'y.

I should make the same answer to this as the 4th interrogatory.

Ans'r to 4th Cross-interrogatory.

I cannot fix any particular time, but think I have seen him write repeatedly; know his handwriting well.

CHLS. CONNER.

ROCKINGHAM, *ss.*

March 19th, 1852.

Personally appeared the above named Charles Conner and made oath that the above deposition, by him signed, is true relative to the cause for which it is taken. Before me,

A. WOOD,
Justice of Peace.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court, Mar. T., 1852.

B. C. CLARK et al.
vs.
FERDINAND CLARK.

Interrogatories to be proposed to Isaac P. Clark, commorant of Exeter, in the State of New Hampshire, a witness to be examined on the part of defendant in the above instituted suit.

Interrogatories to I. P. Clark.

1st. What is your name, age, occupation, and place of residence?

2d. Do you know the parties to the above entitled suit and how long have you known them?

3d. Whether or not were you present at a sale of the defendant's assets in bankruptcy, and if so, when, where, under what circumstances, and state fully what took place at said sale in detail?

4th. State whether or not John Palmer was at said sale, who bid off said assets, who signed the bill of sale, if any, and if so, whether or not in your presence.

5th. State who wrote the name of R. M. Clark in the bill of sale hereto annexed, marked A. (copied at p. 169), and whether any error arose in reference to it; and if so, what and whether any alteration in the name was made, and what and by whom and under what circumstances; will state further said alteration, if any, was made before the execution and delivery of the bill of sale.

6th. State whether or not, to your knowledge, notices of said sale were given, and what notices, and where; state fully and in detail.

7th. If you know any other matter or thing material to the defendant in this case, state it fairly and in detail.

R. CHOATE, *For Def't.*

U. S. OF AMERICA,
District of Columbia.

U. S. Circuit Court. March Term, 1852.

B. C. CLARK & al.
vs.
FERDINAND CLARK.

Cross-interrogatories to Isaac P. Clark.

First. If you say you reside in Exeter, state how long you have been resident there? If you say you reside in Boston, or in Roxbury, but are at present staying in Exeter, declare whether you are not the nephew of the def'd't in this suit, and whether the object of your being in Exeter is not to look up evidence in this cause, or whether you have not been there for that purpose, or for what other purpose have you been there, or are you now there?

2d. If you answered the third interrogatory in the affirmative, state whether Ferdinand Clark, the defendant, was present at said sale; when and from what place did you go to attend said sale?

3d. Produce and annex to your answer the original of a letter from John Palmer to yourself, dated Exeter, April 2, 1852, and

post-marked South Hampton, N. H., April 4, or state why you do not do so.

4th. If you say you attended said sale, state who else was present beside yourself, and who acted as auctioneer, and what was said by the assignee or auctioneer at the time of the sale. State all he said, and to whom, as nearly as possible.

5th. If you say you visited Exeter for the purpose of attending said sale, state on what day and at what time you reached said place, and when you left it.

6th. Declare where you had been, and what you had been doing for the fortnight prior to the said sale.

7th. Declare where the defendant had been during the said period. How long before the said sale did you last see the def't, and where?

8. Declare how long before said sale, if at all, you ever saw said paper, marked "Copy Schedule A., referred to" and exh., and in whose hands or possession you first saw it. Had you it any time in your own hands and possession prior to said sale? If yea, from whom and for what purpose did you receive it, and what did you do with it?

9th. Declare how long after said sale you saw said paper, and in whose hands and possession you last saw it?

C. G. RIPLEY, *For Pl'tff.*

B. C. Clark et al. *vs.* Ferdinand Clark.

Answers made by Isaac P. Clark to the interrogatories and cross-interrogatories hereto annexed.

Answer to Interrogatory 1st.

My name is Isaac P. Clark; I am thirty years old, manufacturer of printing ink and varnishes, and commission merchant. My place of residence is Roxbury, Mass.

Answer to Interrogatory 2d.

I do; have know them both from my childhood.

Answer to Interrogatory 3d.

I was present at a sale of the defendant's assets in bankruptcy; it was on the 9th day of April, 1845, at Exeter, in the State of New Hampshire, at the Rockingham Farmers' Mutual Fire Insurance office.

I received a letter from the assignee of said estate, John Palmer, bearing date Exeter, April 2d, 1845, hereto annexed, marked A., stating that he had advertised the assets of Ferdinand Clark to be sold by auction, at the said Insurance Office, on Wednesday, the ninth day of April, at twelve o'clock at noon, and having a desire, I attended the sale. I arrived at said Exeter on said ninth day of said April, in the forenoon, went into said Insurance Office about eleven o'clock, A. M., I should think; saw said John Palmer there,—

I also saw on the table the list of assets of said defendant, hereto annexed, marked schedule (*B.*), and schedule (*A.*), No. 1663. Several persons were in the room looking at them. I took them up and looked them over; they all were in one package, attached together, lying on the table. After looking them over I laid them down and went out of the office, and went around the town until about twelve o'clock, noon, when I returned to the office; found several persons in the room, some of whom were examining said schedules.

After a few moments, said Palmer said that the time appointed for the sale had arrived. I think he read a license from the United States District Court, authorizing the sale. He also stated what the rule was and read said schedule, which he said contained all the assets of the said bankrupt. He then called for bids. The first person who bid, bid one dollar, saying that he would risk a dollar, as it looked like a long list, or to that effect. I did not know him.

I think there was two or three bids after that. The highest bid was two dollars, upon which bid said Palmer dwelt some time, and no more being offered, they were sold. Said Palmer called for the name of the purchaser, and it was given, R. M. Clark. Said Palmer then sat down to the table, and completed a bill of sale, hereto annexed, marked (*A.*), which signed and delivered to the buyer, the said buyer paying for the same to said Palmer. After that I left and returned home.

Answer to Interrogatory 4th.

I shall refer to my last answer for an answer to this interrogatory.

Answer to Interrogatory 5th.

I saw John Palmer (the person to whom I was introduced under that name, before the sale), write the name of R. M. Clark on said bill of sale, marked (A.), hereto annexed. Said Palmer first filled up said bill of sale, I think to R. E. Clark. I stood at said Palmer's right hand as he sat at the table, and observed that said Palmer had made a mistake in the name, and mentioned the same to said Palmer. He then asked the purchaser if it was R. E. Clark, and the reply was from that purchaser, R. M. Clark. Said Palmer then altered the name by inserting the letter *M.* as it now stands upon said bill of sale. Said alteration was made before the execution and delivery of said bill of sale at said time.

Ans. to Interrogatory 6th.

When I went from said insurance office the first time, before said sale, I saw notices of said sale posted up in public places in said Town of Exeter; I think four; one on said insurance office, one, I think in the hotel, one in the post office, I think, and one in a store in said Town of Exeter, all signed by said Palmer, and stating, in substance, the same as in said letter sent to me by said Palmer. They stated that said Palmer would sell at public auction, all the

assets of Ferdinand Clark, at the office of the Rockingham Mutual Fire Insurance Company, in Exeter, on the ninth day of April, 1845, at twelve o'clock at noon. I cannot say that this is the precise form of said notice, but they were the same in substance.

Answer to Interrogatory 7th.

I saw John Palmer sign his name on the margin of schedule (B.) under the margin of the last page of schedule A., marked copy. The signatures to the papers hereto annexed M marked A., I know to be in his own handwriting, as I saw him sign the same. I think said Palmer told me at the time of the sale, or wrote me previously, that he fixed the time of the sale at twelve o'clock, so that persons might come up and go back to Boston the same day, who wished. Said Palmer wrote me, as I was responsible to said Palmer for his charges, and when he incurred any expense, he informed me by letter.

Answers to Cross-interrogatories.

Answer to first Cross-interrogatory.

I am now in Exeter, but am a resident of Roxbury, as I have before stated, and nephew of said defendant in this suit. I am here to give my evidence at present. I have been here before several days ago, and made inquiries of Alva Wood for the names of some persons whom the defendant's counsel, Mr. Choate, had found, when at said Exeter, would be useful witnesses in this suit. He wished me to get the names of said witnesses from said Wood, as he had mislaid his list of the same. The present visit, and said visit to this place several days ago, are the only visits I have made to said Exeter since said sale. I have no other object in being in Exeter, nor have had than as I have stated.

Answer to Interrogatory 2d.

Ferdinand Clark was present at said sale. I went from Boston to said sale on the day of the sale.

Answer to Cross-interrogatory 3d.

I have received no such letter as mentioned in said interrogatory. I received the letter hereto annexed, to which I suppose said interrogatory was intended to relate.

Answer to Cross-interrogatory 4th.

I should think there were fifteen or twenty persons present at said sale; said Palmer, acted as auctioneer. I cannot state any farther what was said by him, than what I have already stated, in my answers to the direct interrogatories.

Answer to Cross-interrogatory 5th.

I reached said Exeter in the forenoon, and returned in the afternoon, on the 9th day of April, 1845.

Answer to Cross-interrogatory 6th.

I had been in Boston, where I then resided, and had been attend-

ing my regular business, which was manufacturing and vending printer's ink and varnish.

Answer to Interrogatory 7th.

I do not know where the defendant was during said period. I saw said defendant at said Exeter, on the day of sale, before said sale took place. A few days before the said sale said Ferdinand came to me in Boston, and I think wanted me to go up to said Exeter, to buy said assets for R. M. Clark, with a power of attorney, if they sold under fifty dollars. I told him I would not go, and I went away. I did not see him again until the day of sale. Said defendant did not know that I should attend said sale, and I did not intend to attend said sale until the night before said sale took place, and said defendant appeared surprised, when he saw me in Exeter at said sale.

Answer to Cross-interrogatory 8th.

I saw it about one hour before the sale commenced, for the first time; saw it on said table, as I have before stated, and in the hands of the persons in the room; cannot say who the person was who took it first; it was under the control of John Palmer. I took it up, read it, and laid it down; then was the first I ever saw it, or had anything to do with it.

Answer to Interrogatory 9th.

I saw the said schedule and bill of sale connected together, a year or year and a half ago; might have seen it before that time, after said sale, but do not recollect at what time I saw it in the hands of said defendant. The last time I saw it, before seeing it here at this time in the hands of any person, I saw it in the hands of Mr. Bell, partner of R. Choate.

ISAAC P. CLARK.

March 19, 1852.

ROCKINGHAM, *ss.*

Personally appeared the above-named Isaac P. Clark, and made oath that the above deposition by him signed contains the truth, the whole truth, and nothing but the truth, relative to the cause for which it is taken, before me,

A. WOOD, *Justice of Peace.*

Certificate to Bill of Sale.

Then follows the original Bill of Sale (Exh't A. copied at p. 169), and to which is *here* appended the following certificate:

STATE OF NEW HAMPSHIRE,
Secretary of State's Office.

I, John L. Hadley, Secretary of State aforesaid, do hereby certify, that John Kimball was an acting justice of the peace in and for the

County of Rockingham, duly commissioned and qualified, and duly authorized by the laws of said State, to administer oaths, take the acknowledgment of deeds, &c. His commission was dated on the 20th day of June, 1844, and expired on the 20th day of June, 1849.

[SEAL.] Given under my hand, and the seal of the State, this 22d day of May, 1851.

JOHN L. HADLEY,
Secretary of State.

Schedule B.

Schedule of Property of F. Clark, marked *Schedule B.*, copied at page 58, 60, &c., proceedings in Bankruptcy.

A.

Letter of John Palmer, to Isaac P. Clark (see 3d Cross-interrogatory to, and answer by Isaac P. Clark, on p's 311,)

Palmer's Letter.

EXETER, Ap'r 2, 1845.

Mr. ISAAC P. CLARK.

DEAR SIR,—I have advertised the assets of Ferdinand Clark, to be sold by auction at the Rockingham Farmers Mutual Fire Insurance Office, on Wednesday, April 9th, at 12 o'clock at noon. I have incurred some additional expense by taking this course, (about $5, including what I shall have to pay the clerk of the Court for license. I should like to have you or Mr. Ferdinand Clark, attend the sale.

Yr's, &c,

JOHN PALMER.

Which letter is thus endorsed:

"South Hampton, N. H.," "10"
"April 4th,"
"Mr. Isaac P. Clark,"
"No. 3 Water Street, Boston, Mass."

Schedule A.

"Copy Schedule A."

(Names of Creditors), copied on p. 58, 60, &c, "Proceedings in Bankruptcy," thus endorsed;

Exeter, April 9, 1845.—Rec'd of Ferdinand Clark five dollars in [REC. CXXXVI., D. T., 1853.]—20

full for my services as his assignee, and for cash paid out relative to the same.

Signed, JOHN PALMER,
Assignee of said Clark in Bankruptcy.

UNITED STATES OF AMERICA,
District of Columbia, Circuit Court.

B. C. CLARK and al. *vs.* FERDINAND N. CLARK.

Interrogatories to be proposed by the defendant in the above suit to Henry N. Clark of Boston.

H. N. Clark.

1. What is your age, residence, and occupation?
2. Do you know the plaintiff in this action? and how long have you known him?
3. Declare whether or not you knew anything respecting any, and if any, what claim claim or claims of the def'd't upon the Republic of Mexico prior to 1845 and up to 1850? If yea, what was the nature of that claim, and what, if any, was the value thereof?
4. Declare whether or not you have ever, prior and up to said date, had any conversation with Charles H. and Michael M. Dougherty, of New York City, respecting said claim, and its character and value. If yea, where and what, if any, did said Chas. H. & Michael Dougherty say concerning it?
5. Do you know any other matter or thing material or important, or which may be of benefit to the pl't'ff in said suit? If yea, please state the same as fully as if particularly interrogated thereto.

R. CHOATE, for def'd't.

No. 4. "Objected to as irrelevant."—C. G. REPLEY.

Cross-interrogatories

To Henry N. Clark, a witness to be produced and examined by the defendants in this cause.

1. Are you not a relative of the def'ts? If so, what and where did you reside? and what was your business during the time inquired of in the 3d Interrogatory?
2. If you undertake to answer the 3d Interrogatory in the affirmative, and to state any opinion as to the character or value of any claim of the def'd't on Mexico, declare whether you have any other means of knowledge than hearing statements by def'd't and others, and set forth particularly all your means of knowledge in regard to the subject upon which you have undertaken to testify.

De bene esse.

3d. Declare who was present at any conversation, to which you

may testify as having been had with Chas. H. Dougherty, or Michael W. Dougherty, as inquired of in the 4th Interrogatory, besides yourself: where did they take place, and the times of such conversation, if any, and of each of them? Fix as nearly as you can.

C. G. RIPLEY, for Pl'tiff.

I, Henry N. Clark, of Boston, in the County of Suffolk, in the Commonwealth of Massachussetts, on oath, depose and say, in answer to the several Interrogatories and Cross-interrogatories proposed to me, hereto annexed, as follows, namely:

To the first Interrogatory, I answer,

My age is thirty years, my residence is Boston, and my occupation is that of a clerk to Aaron Guild of Boston, in the lumber business.

To the second Interrogatory, I answer,

I do not know the plaintiff in this action at all. I know there is such a man, but never saw him to my knowledge.

To the third Interrogatory, I answer,

I knew that he had a claim against the Mexican government, and knew that he considered it of no value until after the Mexican war. The claim was for the seizure of a cargo of merchandise on board the schooner Louisiana in Mexico. I have seen an invoice of the cargo, that is, a copy of the invoice, and the value of the cargo was there set at about thirty-five thousand dollars. All I know of the value I learned from the copy of the invoice. Mr. Ferdinand N. Clark, the defendant, showed it to me. In 1850, I made an arrangement with him to act as agent in collecting this claim, and in February or March of that year, I went to New York to see Captain Michael Doherty, the master and owner of the schooner Louisiana.

To the fourth interrogatory, I answer,

I never had any conversation with either of them before the year 1850, to my knowledge. My first conversation with them was in February or March of that year on my going to New York. I then had several conversations with each of them about the claim, but I think that not with them both together. Charles H. Doherty wanted Mr. Clark, the defendant, to pay him the expense of papers and documents he had procured for this claim. Very little was said about the value of the claim on Mexico. He seemed rather to have a desire to have the fifty dollars paid to him, which, he said, he had advanced for the papers and documents. Captain Michael Doherty was unwilling to pay his half of the expense that had been incurred in getting up and filing the papers for the claim in Washington, and wanted to have another agent at Washington, instead of the one then employed. They wanted the forty dollars paid before they would join in prosecuting the claim. I don't know that I remember particularly anything said by them as to the character and value of the claim.

To the fifth Interrogatory I answer,

I know that Mr. Clark, the defendant, in 1843, went up to New Hampshire to live, and that he considered the claim of no value until after the Mexican war. I know that after I returned from New York in consequence of the information I received from Captain Michael Dogerty, I declined to take the agency to prosecute the claim unless I received from the defendant a guaranty of the amount of the costs and expenses that might be incurred, which he refused to give me, and told me that he should abandon the claim. I was at the expense of twenty dollars for going to New York, for which I never received anything.

To the first Cross-interrogatory I answer,

I am a nephew of the defendant. I was born in Boston, and have always lived here except a few years prior to June, 1843, when I was abroad in the West Indies, though I was in Boston every summer except the summer of 1841 or 1842, which I spent in New York.

In 1843 I commenced being a clerk in the lumber business, and have been so ever since excepting the last year, and am so now.

To the second Interrogatory I answer,

I have no other means of knowledge than the statement of the defendant and others, and the copy of the invoice, as I have said.

To the third Cross-interrogatory I answer,

I don't remember any one being present beside myself. The conversation took place at Captain Doherty's house, and at his son Charles's office, and in the street. I can't state the times of any of the conversations, except that they were during the three or four days of my stay in New York, expressly on this business, in February or March, 1850. Captain Doherty carried me to his son Charles's office and introduced me to him and left us, as I think, together. I had a conversation with Charles then and several times afterwards, and I had conversation with Captain Doherty at several times.

HENRY N. CLARK.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.

On this 12th day of May, eighteen hundred and fifty-two, personally appeared before me, the subscriber, at my office, in Boston, in said county, Henry N. Clark, the aforesaid deponent, and having been first sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories and cross-interrogatories hereto annexed, gave the foregoing deposition in answer, which was by me reduced to writing in his presence, and then by me carefully read over to him, and by him subscribed in my presence.

JOHN W. BROWNE,
Justice of the Peace.

Endorsed, "as to supposed value of claim objected to."

U. S. A. Dis. of Columbia,
Circuit Court.

B. C. Clark et al.
vs.
F. Clark.

Interrogatories to be addressed to Henry M. Clark, of Boston, in the State of Massachusetts, on the part of dft., in the above case.

1st. What is your name, residence, and occupation?

2. Do you know J. H. Stewart, of New York, and if yea, how long have you known him, and state whether you are acquainted with his handwriting, and the means of your knowledge?

3d. If you say that you know the handwriting of said Stewart, state whether the papers annexed marked 1 to 6, are in his handwriting.

R. CHOATE, *For Def't.*

The plt'f objects to the foregoing as seeking to introduce impertinent and illegal testimony.

C. G. RIPLEY, *For Plt'f.*

No. 1.

No. 1.

Ferdinand Clark, Esqr.,

My dear Uncle:—I hasten to inform you of my progress in your affairs with Jno. Kilton; after first attaching all his real estate (armed with a capias to hold to bail $50,000 at your suit), to a place called Stongton, 20 miles distant from Boston, and found the *Deacon* enjoying the country air at a farm-house a mile from the village. He says I took him by surprise. Well, after a seige with him of about 3 hours, I compelled him to assign on certificate of deposite, in favor of Deacon Burnstead & Son, and by them assigned to Kelton of $9000 to me, by reserving to himself in writing 500$, therefore I draw from the Atlantic Bank to-day $8500, and attach the remaining $500, and all the furniture in his house. I am satisfied he is a *rogue;* he was determined not to give up the money until he saw to a certainty that he would be lodged in jail that night; he told many lies to me, and convinced me that he had not a particle of honesty. And now it only remains for you say whether I shall proceed to serve the writ, and put him in jail, to compell him and mother to convey the Boston land, and every dollar he is worth in the world, to you to secure you. It may all be conveyed in the hands of trustees for your benefit. He is now in my power, and I will exact it to the

utmost, if you so direct. You know his family, and the disgrace it will work to them should I proceed. I therefore wait your answer, assuring you there will be no flinching on my part when I can serve you. He says now, he only brought with him $9000, has used $100, and pretends that the balance that was in the banks at N. Y. was used in the payment of some of your drafts upon Clark & Co., which he says, Kitching can show or *explain*. He had made a verbal promise with the bank to permit it to remain one month, and should it be wanted in a shorter *period*, that then he would pay the bank interest. (Lemuel Clark copied the certificate of deposition which I sent to you.) I threatened the bank with immediate *suit*, and they then consented to pay me $8500 and look to Deacon Burnstead for the *interest*. The bill of exchange is accepted by Jos. Ballister & Son. They offer cash by deducting the interest. Shall I receive the cash or send it to you. I shall hold the money collected or to be collected of Kilton or Clark & Co., and apply them pursuant to the stipulation I gave in writing to you? I hope you will take the business into consideration and notice me at once. I am anxious either to return to N. Y. or proceed for further security from Kilton. Please see that no papers are executed appertaining to (*Hews*), unless you have examined them 1st. I should think it advisable to keep Glover unadvised of my success. I shall, if possible, take from Kilton an affidavit in regard to the general business of the house, and should he return to Boston before I leave, I will get him to execute a power of attorney. If you conclude that it is best for me to stay and compel Kilton to assign all he and his mother has to you, I should like to have Mrs. Stewart come to Boston to stay with me. I hope you will keep up your *spirits*, and enjoy yourself as much as possible. Should you prefer any particular *dish*, please mention it to Mrs. Maxwell. The family are all well and kind to me. I now go to bank to draw the money and put this in post-office. I did not get into the city until 2 o'clock this morning. Love to Louisa, if she is there, and say to brother James to wait my return. Respects to all friends, and believe me your friend under all circumstances.

J. HOPKINS STEWART.

August 4th, '41.

No. 2.

No. 2.

F. CLARK, ESQR.,

I have just time to say a word more to what I have already said in the enclosed, that if you see Mr. Burrell say to him that I have got a paper signed by Delaporte, authorizing him to sell the pictures for whatever sum he pleases and when he pleases, and also to draw

1842.

upon Madam Ordroniree for the moneys in her hands; from Rossett I go to Nahante, to ride with the beautiful pink of politeness, B. C. C., this afternoon.

I'll catch the rogue!! mind!! that.

Your friend,

Sept. 7th, '41. J. HOPKINS STEWART.

No. 3.

NEW YORK, June 20, 1842.

MR. FERDINAND CLARK,

SIR:

The case of Charles Stanton against yourself and your brother Isaac, has been set down for trial on the 29th day of this month, at which time you must be prepared for the trial of the cause; and to that end you must furnish a list of the witnesses to be subpœnaed on your part, that I may make out the necessary papers. You must also have your two nephews, Henry N. and Isaac P. Clark, here ready.

Y'rs, &c.,

J. H. STEWART,

No. 1 New St.

No. 4.

No. 4.

MY DEAR UNCLE,—I have been all day after business of yours, hoping to close so as to leave this afternoon; and at 2, P. M., a large package, with instructions with regard to B. C. and John C., &c., &c., &c. (and also another, containing letters), came to hand; and therefore, being very desirous to please you as far as I can, I have remained, and shall follow your instructions, and do all I can to effect your best interests. I have been with B. C. several hours to-day; the rascal thinks perhaps he has a greenhorn to deal with, but I will show him yet I will outwit him and all others who have and are injuring you. But you know it is not a straightforward business, to be finished in a day; you must have patience. Say to Mr. Burrell I have Delaporte under arrest here; hope to get something from him. Did you mean that Henry should come to N. Y. to-day, or next Saturday? I thought you meant that. Now, my dear uncle, I have not time to write any more. I have one request to make; I want to see Louisa. Why can't she come Monday evening? I cannot hope to finish all for you to your satisfaction for several days; therefore let her come. I assure you will no say I have neglected your affairs at all on her account.

I think I understand your requests, and will attend to them fully. In the mean time, believe me, dear uncle, to be your friend indeed,

J. HOPKINS STEWART.

Saturday, Aug. 28, 1841.

Endorsed, "Ferdinand Clark, Esq.
Care of G. D. A. Parks, No. 1 Broad St.

No. 5.

No. 5.

MY DEAR UNCLE,—At last!! after a negotiation!! of more than ten days, off an on, I have brot the proud, tyrannical B. C. Clark!! to his marrow!! bones. The license is signed, and your honor not compromised in the least. Having seen this done, I shall see the others!! to-day, will finish with Kilton to-morrow, and start same afternoon for New York; will see, I hope, you next morning in good spirits and health. Perhaps one of the young ladies will accompany me,—Charlotte Helen! I do hope really Louisa is well and happy. I gave yours to Mr. Whiting for Madam. All well here; nothing new here! Please say to my friend Burrell that I will be home Thursday!! I have seen D. Draper; had a long talk with him; like him well.

I remain yours, truly,

J. HOPKINS STEWART.

Boston, Sept. 9, 1841.

Endorsed, Ferdinand Clark, Esq.,
New York City.

No. 6.

No. 6.

THURSDAY, August 26, 1841.

MY DEAR UNCLE,—I have this day been with Mr. John Clark. He has verbally renewed the notes; to-morrow, he says, he will write new ones, if I so desire. He said, however, he wished to consult with his brother, B. C. He hoped that he could make me some definite proposition. I hope in God's name he will do it, so that we may have some hope from that quarter. It grieves me to have you lose so large an amount, or any amount. I have also been probing the Kilton mystery, about his land. I am in hopes to find something valuable. No doubt he got a large compensation for his quit-claim deed. We shall know the whole mystery; circumstances seem to tend that way. Your brother Isaac knows all about the Kilton land. Why does he not write to Justus? Justus will not sign any paper

all I can do. I will no doubt bring with me letters of license to you from B. C. C., &c., &c. I shall be at home Sunday morning, if nothing prevents. I shall then have done all I can for the present in your affairs. I think Washburn is a little disaffected about his fees. To-morrow I am to meet B. C. Clark at his office. I hope Louisa is well, and that you are getting more light upon the subject of your unfortunate business with Clark & Co. I shall entrust what business I have with Kilton to finish, and John Clark, with a lawyer of my own choosing. I do not like to have any more of your affairs to get into the hands of Washburn. I shall get all necessary affid—— documents from Kilton. I have not much more time to write. The cars are just off. I shall expect you to write to-morrow.

I am your friend,

J. HOPKINS STEWART.

Endorsed, Ferdinand Clark, Esq.
Care of G. D. A. Parks, Esq.,
No. 1 Broad St., New York.

Deposition of H. N. Clark.

I, Henry N. Clark, of Boston, in the County of Suffolk, in the Commonwealth of Massachusetts, on oath depose and say, in answer to the several interrogatories proposed to me, hereunto annexed, as follows, namely:

To the first Interrogatory I answer, my name is Henry N. Clark; my residence Boston; my occupation that of clerk in the lumber business.

To the second Interrogatory I answer, I know him; I have known him about ten years. I am acquainted with his handwriting; have seen a great deal of it; have seen him write a great deal, and have copied letters for him—his own letters—at his request, at his office in New York; and I have specimens of his writing,

To the third Interrogatory I answer, I have examined all the papers annexed; they are all his handwriting, except the one marked (3), and that is signed by him; I have no doubt of the handwriting.

HENRY N. CLARK.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.

On this twelfth day of May, eighteen hundred and fifty-two, personally appeared before me, the subscriber, at my office in Boston, in said County, Henry N. Clark, the aforesaid deponent; and having been first sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories hereto annexed, gave the foregoing deposition in answer, which was by me

reduced to writing in his presence, and then carefully read over to him, and by him subscribed in my presence.

JOHN W. BROWNE,
Justice of the Peace.

The above deposition and exhibits thus endorsed:

"Objected to as incompetent and inadmissible."

U. S. A., DISTRICT OF COLUMBIA.
Circuit Court.

B. C. CLARK et al.
vs.
F. CLARK.

Interrogatories to H. N. Clark.

Interrogatories to be proposed to Henry N. Clark, of Boston, in the State of Massachusetts, on the part of the defendant in the above case.

1st. What is your name, residence, and occupation?

2d. Do you know John H. Stewart, of the City of New York, and if yea, how long have you known him, and have you acquaintance with his handwriting; and your means of knowledge?

3d. If you say that you know his handwriting, examine the papers hereto annexed, marked from one to two, and state whether they are in his handwriting.

R. CHOATE, *for D'ft.*

The plaintiffs object to the foregoing, as seeking to introduce impertinent and illegal testimony.

C. G. RIPLEY, *For Pl'tff.*

No. 1.

No. 1.

FERDINAND CLARK, Esq.

MY DEAR SIR,—I have met with so many accidents in business, as that I am used up, and now want to get rid of all indebtedness, or supposed indebtedness; of the latter class I suppose your pretended claim may be denominated. However, it is important that I should make out in amount at least ⅔ds of all my indebtedness, by way of petition for the ⅔d act. My object now in writing, is to ascertain who has the claim that you represented, as I presume it was purchased at your assignee's sale. It is a pity that matters with both you and me are, and have been, so disastrous. I want

you to become a petitioning creditor. Why cannot something be made available with John Clark's notes? They will soon be outlawed. Write me upon that subject, and let me know whether you will aid in making me a free man. Your supposed claim may have the effect of inducing other creditors to sign off. I beg of you to forget what is *past*, and we will try to be of mutual service for the future.

Yours, truly,
J. H. STEWART,
77 Nassau St.

No. 2.

No. 2.

MR. FERDINAND CLARK.

SIR,—A day before I left N. Y., on my mission hither, I saw a letter in a gentl'ns hands, in which you take occasion to say that I deserve the most severe punishment on earth. If you will take pains to inquire, you will ascertain what agency I had in enjoining a certain fund in the office of the Sec'y of the Treasury of the U. S. I write this for the purpose of informing you that I may be of great service to you in the premises. Having succeeded in the Court to-day, I shall leave to-morrow for New York, and trust that this visit will induce you to adopt discretion as the best part of valor. Suffice to say, that you had better see me, or put some person having authority in communication with me.

Y'rs, &c.,
J. HOPKINS STEWART.

June 2d, 1851. Washington, D. C.

Deposition of H. N. Clark.

I, Henry N. Clark, of Boston, in the County of Suffolk, in the Commonwealth of Massachusetts, on oath; depose and say, in answer to the several interrogatories proposed to me hereto annexed as follows, namely,

To the first Interrogatory, I answer,

My name is Henry N. Clark; my residence Boston; my occupation that of clerk in the lumber business.

To the 2d Int.

I know Joseph Hopkins Stewart, of the City of New York, but do not know any person by the name of John H. Stewart; I have known Joseph Hopkins Stewart about two years. I am acquainted with his handwriting; I have seen a great deal of it; have seen him write in his office often during about three months, when I made my head-quarters

at his office, in 1841 or 1842, I think in 1841; I have seen his handwriting since then, and have some written by him in my presence in a book at my house, signed with his name. I have seen this within a few days.

To the 3d Int.

I have examined the papers annexed, marked (1) and (2); I think that the paper marked (1) may be his in a disguised hand.

I think there is no question that the paper marked (2) is his handwriting.

I have no question of it.

HENRY N. CLARK.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.

On this twelfth day of May, eighteen hundred and fifty-two, personally appeared before me, the subscriber, at my office in Boston, in said county, Henry N. Clark, the aforesaid deponent, and having been first sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories hereto annexed, gave the foregoing deposition in answer, which was by me reduced to writing in his presence, and then carefully read over to him, and by him subscribed in my presence.

JOHN W. BROWNE.
Justice of the Peace.

The foregoing interrogatories, depositions, and exhibits, endorsed, "Objected to as inadmissible."

Complainant's Evidence.

U. S. A., DIST. OF COLUMBIA.

Circuit Court, March T., 1852.

Plaintiff's Interrogatories.

Interrogatories to John Kilton, of Boston, to be produced and examined on the part of the plaintiffs, B. C. Clarke et al. *vs.* Ferdinand Clark.

1st. What is your name, age, residence, and occupation?

2d. Are you acquainted with Ferdinand Clark, the def't in the above cause, and how long have you known him? Are you acquainted with his handwriting, and what opportunity have you had for being acquainted with it?

3d. Examine the paper shown to you, marked *A.*, purporting to be a bill of sale from one John Palmer to R. M. Clarke, and the sche-

dule annexed, headed "Copy" Schedule A, referred to in the annexed petition, No. 1663: declare in whose handwriting the said schedule is, and examine the receipt endorsed thereon, dated Exeter, April 9, 1845 (copied on p. 319), and say in whose handwriting is the said receipt? (objected to as irrelevant.)

C. G. RIPLEY, *for Pl'ffs.*

UNITED STATES OF AMERICA,
Dist. of Columbia.

C. C., Mar. T. 1852.

B. C. CLARK et al. *vs.* FER'D CLARK.

Defendant's Interrogatories.

Interrogatories to be proposed to John Kilton, of Boston, on the part of the defendant in the above entitled suit.

1st. Have you ever had any difficulty, quarrel, or misunderstanding with said defendant, and what, if any?

2d. Are you on good and friendly terms with said def't now, or how otherwise?

R. CHOATE, *Att'y for Def't.*

B. C. CLARK et al. *vs.* FER'D CLARK.

Deposition of J. Kilton.

On the 3d day of May, 1852, John Kilton, being duly sworn and examined on the interrogatories and cross-interrogatories hereto annexed, next before this deposition —— deposed as follows,

To the first Interrogatory said John Kilton answers,

My name is John Kilton; age, about fifty years; reside in Boston; occupation, merchant.

To the 2d.—I am acquainted with said Ferdinand, and have known him more than twenty years; I think I am acquainted with his handwriting; I have seen him write; have received a great many letters from him, and have seen his letters to his brother Isaac and others; I have written to him and received his letters in answer, and consider myself well acquainted with said Ferdinand's handwriting.

To the 3d, he answers,—I have examined said papers, and that said schedule and the receipt endorsed thereon are both in the handwriting of said Ferdinand Clark. There is no doubt about it in my mind.

To the 1st Cross-interrogatory he answers,

I don't recollect any specific quarrel or difficulty with him; we have

differed in opinion about several matters; we have not been particularly friendly toward each other, that is, I have not felt any particular friendship for him, and did not suppose he had any for me.

To the 2d Cross-int's.

I have no particular animosity to said Ferdinand, although I have received several letters from him that I consider abusive. I have seen but very little him of late years, and hardly know upon what terms we shall meet. It would depend a good deal upon how he should meet me.

JOHN KILTON.

I, the subscriber, a Justice of the Peace in and for the County of Suffolk, and Commonwealth of Massachusetts, and duly qualified to take depositions, certify, that this third day of May, 1852, at my office in Boston, appeared before me the above-named John Kilton, and been duly cautioned and sworn, was examined by me upon the annexed interrogatories, and testified as in the foregoing deposition is set forth, and the same with said interrogatories being read over to him, he subscribed the same in my presence.

J. L. ENGLISH.
Justice of the Peace.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

Interrogatories and Answers of S. B. Clark.

B. C. CLARK & AL.
vs.
FERDINAND CLARK.

Interrogatories to be proposed by the pl'ffs in said cause to Samuel B. Clarke, of Exeter, in the State of New Hampshire.

Please state your age, occupation, and residence, and the place where you resided in April, 1845, and your occupation at that time?

Ans.—Age in 1845, twenty-nine years; occupation, printer; residence, in Exeter, County of Rockingham, and State of New Hampshire; printer and publisher in 1845, and at this time.

If you were then or now connected with the publication of any newspaper, please state the name of it, and the place of its publication.

Was or not said newspaper published in 1845, and at said Exeter? State whether there was or not any newspaper in March or April,

1845, published in said Exeter, except such as you were concerned in? If there were any other, what was the name of it? State whether there was or was not, in the months of March or April, 1845, any advertisement published in the Exeter News Letter, or any other newspaper in said Exeter, or notice of the sale, by John Palmer, assignee of Ferdinand Clarke, of the sale by auction of the assets of said Ferdinand Clark in bankruptcy or otherwise? If yea, annex a copy of it?

Ans.—I was then and now connected in publishing a newspaper called the Exeter News Letter, at said Exeter, in 1845 and now; I believe that, in 1845, one Abraham B. Brown published, or was concerned in publishing, a small newspaper in said Exeter, the name and dates of publication I do not now remember. I have examined the papers of "Exeter News Letter," published in March and April, 1845, and do not find any notice of sale of effects of Ferdinand Clark by John Palmer, his assignee, and have no knowledge of any such notice or publication of any kind or description.

Please state what other newspapers there were published in Rockingham County in the year 1845?

Answer.—The Portsmouth Journal, New Hampshire Gazette, and there may have been others of which I do not now remember.

Please state what county officers resided at said Exeter in 1845?

Ans.—Ira B. Haitt, Clerk of Courts, David A. Gregg, Register of Probate, and probably Register of deeds.

Please state what is the population of said Rockingham County, and the names of the shire towns, now and in 1845.

Ans.—About forty-nine thousand population—Portsmouth and Exeter shire towns.

If you know John Palmer, formerly of South Hampton, in said County of Rockingham, where did he reside and what was his business, in the winter and spring of 1845?

Ans.—I knew said Palmer, and do not know whether he resided in South Hampton or Exeter, in 1845, and do not recollect in what business he was then engaged.

State whether there is or is not now, or was not in 1845, any job printing office in said Exeter, except the office with which you were connected? and state whether you did or did not, in March or April, 1845, print any notice for John Palmer, that he would, on the 9th of April, 1845, or on any other day, sell the assets of Ferdinand Clark at auction? If you know anything of such notice, being either printed or written, and posted up in said Exeter, please state what you know upon said subject?

C. G. RIPLEY, *For Pl'tff.*

Ans.—There were two other printing offices in Exeter, in 1845, besides the one with which I am concerned, one by Francis Grant,

and one by Abraham R. Brown. I have no recollection of printing or seeing any such notice as inquired after, and have no knowledge or remembrance upon the subject.

SAMUEL B. CLARK.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

EXETER, April 7, A.D. 1852.

Then personally appeared the above-named Samuel B. Clark, who subscribed and made oath to the above answers, by him subscribed before me.

J. HAMILTON SHAPLEY,
Justice of Peace.

STATE OF NEW HAMPSHIRE,
Secretary of State's Office.

I, John L. Hadley, Secretary of the State aforesaid, do hereby certify, that J. Hamilton Shapley, is an acting justice of the peace in and for the County of Rockingham, duly commissioned and qualified, and duly authorized by the laws of said State to administer oaths, take the acknowledgment of deeds, &c. His commission was dated on the 9th day of August, 1847, and will expire on the 9th day of August, 1852.

[SEAL.] Given under my hand and seal of the State, this 13th day of April, 1852.

JOHN L. HADLEY,
Secretary of State.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

B. C. CLARK & al.
vs.
FERDINAND CLARK.

Interrogatories to C. W. Brewster.

Interrogatories to be proposed by the plaintiff in said cause, to Charles W. Brewster, of Portsmouth, in the State of New Hampshire.

1st. Please state your age, residence, and occupation, and the place where you resided, and your occupation, in 1845?

2d. State what newspapers were published in Portsmouth aforesaid, in the spring of 1845? State whether there was or was not published in the Portsmouth Journal, in the months of March or April, 1845, any advertisement or notice, that John Palmer as assignee of Ferdinand Clark, in Bankruptcy, would sell by auction on the 9th of April, 1845, or at any other time the assets of said Clark, if yea, annex a copy of it?

3d. State whether any such advertisement or notice, as is named in the last Interrogatory, was or not published in any other newspaper in said Portsmouth, in the month of March or April, 1845. If yea, please annex copies thereof.

C. G. RIPLEY, *For Pl'tff.*

Deposition of Brewster.

I, Charles W. Brewster, of Portsmouth, in the County of Rockingham, and State of New Hampshire, publisher, of lawful age, on oath, depose and say in answer to the foregoing interrogatories as follows, viz:

To the first Interrogatory I answer,

I reside in Portsmouth, New Hampshire, am publisher of the Portsmouth Journal, I resided in Portsmouth in 1845, and was at that time publisher of the Portsmouth Journal.

To the second Interrogatory I answer.

There were published in Portsmouth, in 1845, the Portsmouth Journal, the New Hampshire Gazette, and the Portsmouth Mercury. No such advertisement was published in the Portsmouth Journal.

To the third Interrogatory I answer.

I have not examined the files of any other paper than the Portsmouth Journal, had no knowledge that such advertisement, has ever been published in any newspaper in Portsmouth.

CHARLES W. BREWSTER.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me a justice of the peace, within and for said County, at my office in Portsmouth, in said County, on the fifth day of April, A.D. 1852, the above named Charles W. Brewster, and he then and there being duly cautioned and sworn, to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him as above, gave the foregoing answers, whith were reduced to writing by me in his presence, and subscribed by him in my presence.

After said answers had been duly written and subscribed, said deponent again swore, that his said answers contained the truth, the

whole truth, and nothing but the truth, the whole truth relative to the matters inquired of in the foregoing interrogatories.

SAM. STORER,
Justice of the Peace.

Interrogatories to L. Moses.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

B. C. CLARK, et al.
vs.
FERDINAND CLARK.

Interrogatories to be proposed by the plaintiff in the above cause, to Levi Moses of Portsmouth, in the State of New Hampshire.

1st. Please state where you resided in the spring of 1845, and what was then your occupation—and what is your age.

2d. State what papers were, in 1845, published in the County of Rockingham.

3d. State whether there was or was not, published in the Portsmouth Mercury, or in any other newspaper in said Portsmouth, either in the months of March or April, 1845, any advertisement or notice, that John Palmer as assignee of Ferdinand Clark, in bankruptcy, would sell by auction on the 9th day of April, 1845, or at any other time, the assets of said Clark. If yea, annex a copy thereof.

C. G. RIPLEY, *For Pl'tff.*

Deposition of L. Moses.

I, Levi Moses of Portsmouth, in the County of Rockingham, and State of New Hampshire, printer, of lawful age, on oath depose and say, in answer to the foregoing interrogatories as follows, viz:

To the first Interrogatory I answer.

I resided in Portsmouth, New Hampshire, in the spring of 1845, was an apprentice to the printing business, in the office of the Portsmouth Mercury, and twenty-six years of age.

To the second Interrogatory I answer.

I cannot now enumerate all of them, among them were the New Hampshire Gazette, Portsmouth Mercury, and Exeter News Letter.

To the third Interrogatory I answer.

I have looked over the files of the Portsmouth Mercury, of that date, and can find no advertisement or notice to that effect, nor any advertisement in relation to Ferdinand Clark, at any other time in said paper.

LEVI MOSES.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me, a justice of the peace, within and for said County, at my office in Portsmouth, in said County, on the fifth day of April, A.D. 1852, the above named Levi Moses, and he then and there being duly cautioned and sworn, to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him as above, gave the foregoing answers, which were reduced to writing by me in his presence, and subscribed by him in my presence. After said answers had been duly written and subscribed, said deponent again swore, that his said answers contained the truth, the whole truth, and nothing but the truth, relative to the matters inquired of in the foregoing interrogatories.

SAM. STORER,
Justice of the Peace.

Interrogatories to S. W. Moses.

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

B. C. CLARK, et al.
vs.
FERDINAND CLARK.

Interrogatories to be proposed by the pl'tffs in said cause, to Samuel W. Moses, of Portsmouth, N. H.

1st. Please state your age, residence and occupation, and the place where you resided, and your occupation in 1845.

2d. State what newspapers were published in Portsmouth aforesaid, in the spring of 1845, and what papers were published in Rockingham County, out of Portsmouth at the same time.

State whether there was or was not published in the New Hampshire Gazette, in the months of March or April, 1845, any advertisement or notice that John Palmer, as assignee of Ferdinand Clark, in bankruptcy, would sell by auction, on the 9th day of April, 1845,

or at any other time the assets of said Clark? If yea, annex a copy thereof.

3d. State whether any such advertisement or notice as is named in the last interrogatory was or was not published in any other newspaper in said Portsmouth, either in the month of March or April, 1845? If yea, please copy thereof.

C. G. RIPLEY, *for Pl'ff.*

Deposition of S. W. Moses.

I, Samuel W. Moses, of Portsmouth, in the County of Rockingham, and State of New Hampshire, grocer, of lawful age, on oath depose and say, in answer to the foregoing interrogatories, as follows, viz:

To the first Interrogatory, I answer,

I am forty years of age; I reside in Portsmouth, New Hampshire; am a grocer. In 1845, I resided in said Portsmouth; was then a printer and one of the publishers and proprietors of the New Hampshire Gazette, printed in said Portsmouth.

To the second Interrogatory, I answer,

In the Spring of 1845, there were four newspapers published in Rockingham County, viz., The Portsmouth Journal, The New Hampshire Gazette, and the Portsmouth Mercury, at Portsmouth, and the Exeter News Letter, at Exeter. There was not, to my knowledge, or belief, any notice or advertisement published in the New Hampshire Gazette, in the months of March or April, 1845, relating to John Palmer, as assignee of Ferdinand Clark, in Bankruptcy.

To the third Interrogatory, I answer,

I have no knowledge, or any means of knowing what was published in the other papers then printed in the County.

SAMUEL W. MOSES.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me, a Justice of the Peace, within and for said County, at my office in Portsmouth, in said County, on the fifth day of April, A.D. 1852, the above-named Samuel W. Moses, and he then and there being duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him as above, gave the foregoing answers which were reduced to writing by me in his presence, and subscribed by him in my presence. After said answers had been duly written and subscribed, said deponent again swore that his said answers contained the truth, the whole truth, and nothing but the truth, relative to the matters inquired of in the foregoing interrogatories.

SAM. STORER.
Justice of the Peace.

1069.

STATE OF NEW HAMPSHIRE,
Secretary of State's office.

I, John L. Hadley, Secretary of State aforesaid, do hereby certify that Samuel Storer is an acting Justice of the Peace, in and for the County of Rockingham, duly commissioned and qualified, and duly authorized by the laws of said State to administer oaths, take the acknowledgment of deeds, &c. His commission was dated on the 23d day of Novr. 1849, and will expire on the 23d day of November, 1854.

[SEAL.] Given under my hand, and the seal of the State, this thirteenth day of April, 1852.

JOHN L. HADLEY,
Secretary of State.

U. S. OF AMERICA,
Dist. of Columbia.

Circuit Court. March T., 1852.

B. C. CLARK, et al.
vs.
FERDINAND CLARK.

Interrogatories to R. M. Clark.

Interrogatories on the part of the plaintiff, to Roxanna M. Clark, of Roxbury, in the State of Massachusetts.

First,—What is your name, age, residence, and occupation?

Second,—Do you know the defd't in the above suit; and what relationship, if any, is there between you?

Third,—Did you authorize any person, and if yea, whom, to go to Exeter in New Hampshire, to attend on your behalf, a sale at auction of the effects of Ferdinand Clark, on or about the ninth day of April, A.D. 1845?

Fourth,—What instructions did you give said agent about bidding or otherwise acting for you at said sale?

Fifth,—What payments of money did you make to any person or persons, and whom, relative to the business aforesaid. Specify particularly all the payments made by you in that business, or in consequence thereof, and to whom you paid the money in each case?

Sixth,—What sums of money did you ever receive from any person or persons, and from whom in particular, in consequence of any purchase or resale by you, if any there were of said effects?

Seventh,—By whose request, and upon what inducement or consideration did you consent, if you ever did consent, that the said effects should be bid off in your name?

Eighth,—Where did said Ferdinand Clark live and have his house in the year 1845.

C. G. RIPLEY, *for Pltff.*

The above Interrogatories thus endorsed:

"Defendant will not ×."

R. CHOATE & BROOK.

B. C. CLARK, et al.
vs.
FERDINAND CLARK.

Deposition of R. M. Clark.

On the 7th day of May, 1852, Roxanna M. Clark, being duly sworn and examined, on the annexed interrogatories to her addressed, deposed as follows:

To the 1st Interrogatory, said Roxanna M. Clark answers,

My name is Roxanna M. Clark; my age is sixty-three years; I reside in Roxbury, Massachusetts, and am a seamstress.

To the 2d Interrogatory, she answers,

I do know said Ferdinand Clark; he is my brother.

To the 3d Interrogatory, she answers,

I did; I authorized my brother, said Ferdinand Clark.

To the 4th Interrogatory, she answers,

My brother told me they probably would not bring much, and I then authorized him to purchase them for me. I don't recollect giving him any definite instructions.

To the 5th Interrogatory, she answers,

He, said Ferdinand, paid the two dollars for the purchase of Mr. Palmer for me. He, Ferdinand, was then owing me about six dollars, which exceeded the sum he paid for me to Palmer; I made no other payment about the business.

To the 6th Interrogatory, she answers,

I did receive from thirty to forty dollars at different times, from said Ferdinand, for the sale of said effects to said Ferdinand from me; I received nothing from any one else. The day after the said Ferdinand returned from the sale at Exeter, or within a day or two, I sold said effects to him, and he subsequently paid me the above mentioned sum at different times.

To the 7th Interrogatory, she answers,

My brother, said Ferdinand, mentioned that the effects were to be sold, and would probably bring but very little, and I then authorized him to buy them for me; I gave him an authority in writing before he left Roxbury, to go to Exeter to attend the sale; I don't remember whether he or any one requested me to be the purchaser of said effects, or that any inducement was held out to me to buy them, except that my said brother said they would probably go for a small sum.

To the 8th Interrogatory, she answers,

I do not know; he was away for his health, and I was told he was at Exeter a part of the time, attending to his business.

ROXANNA M. CLARK.

I, the subscriber, a Justice of the Peace, in and for the County of Suffolk, and Commonwealth of Massachusetts, and duly qualified to take depositions, certify that on the 7th day of May, A.D. 1852, at my office, in Boston, personally appeared before me, the above named Roxanna M. Clark, and being duly cautioned and sworn, was examined by me upon the annexed interrogatories, and testified as in the above deposition as set forth, and her answers having been read over to her with the interrogatories, she subscribed the same in my presence.

J. L. ENGLISH,
Justice of the Peace.

U. S. OF AMERICA,
District of Columbia.

Circuit Court. March T., 1852.

BENJ. C. CLARK, et al.
vs.
FERDINAND CLARK.

Interrogatories to I. P. Clark.

Interrogatories on the part of the plaintiff in said cause, to Isaac P. Clark, of Roxbury, in the State of Massachusetts.

First,—Declare whether or not you have previously given testimony in the above cause before Alva Wood, Esquire, a Justice of the Peace in the State of New Hampshire, upon interrogatories proposed by the said defendant.

Second,—If you answered the preceding question in the affirmative, please to state the name of the individual referred to by you in your answer to the fifth interrogatory proposed to you at your previous examination aforesaid, as the purchaser at the sale at auction there referred to, if you know it, and state the reason why you did not give the name in your former examination.

Third.—Declare whether or not the person referred to in your said answer to said fifth Interrogatory, "as the purchaser," who was asked by said Palmer, if it was R. C. Clark? and who replied, "R. M. Clark" is the same individual referred to by you in your answer to the third Interrogatory proposed to you at your former examination as "the buyer," to whom said Palmer delivered said bill of sale.

Fourth.—At whose request, upon what inducement, and for what consideration did you become responsible to said Palmer for his fees and expenses in said case?

C. G. RIPLEY, for Pl'tiff.

The above interrogatories are thus endorsed:

"Def't will not ×."

R. CHOATE & R. & N.

Deposition of I. P. Clark.

B. C. CLARK and al. *vs.* FERDINAND CLARK.

On the 3d day of May, 1852, Isaac P. Clark, being duly sworn and examined on the Interrogatories hereto annexed, and to him addressed, deposed as follows:

To the 1st Interrogatory, said Isaac P. Clark answers, I have.

To the 2d Interrogatory, he says, I meant in my answer inquired about that R. M. Clark was the purchaser; that they were bought by her request and authority (as I was then informed and believed, and have since had no reason to doubt) by another person, which other person was Ferdinand Clark, the defendant. It was said Ferdinand, who answered Mr. Palmer's question. I had no motive in not giving Ferdinand Clark's name in my answer to said Interrogatory, and supposed I answered the Interrogatory correctly.

To the 3d Interrogatory, he answers,

He was. Palmer delivered the bill of sale to said Ferdinand Clark.

To the 4th, he answers,

I don't know at whose request I became responsible for said fees, but believe it was at the request of said Ferdinand Clark. My inducement was to oblige him. I suppose I received no consideration for so doing.

ISAAC P. CLARK.

I, the subscriber, a justice of the peace in and for the County of Suffolk and Commonwealth of Massachusetts, and duly qualified to take depositions, certify, that on the 3d day of May, A.D. 1852, at my office, in Boston, the above-named Isaac P. Clark appeared before me, and, being duly cautioned and sworn, was examined by me on the annexed Interrogatories, and testified, as in the foregoing deposition is set forth; and his answers, together with said Interrogatories, being read over to him, he subscribed the same in my presence.

J. L. ENGLISH, *Justice of the Peace.*

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Office, May 10th, 1852.

I hereby certify that on the sixth day of February, eighteen hundred and fifty, James L. English was appointed for the term of seven years a Justice of the Peace for the County of Suffolk, in the said Commonwealth, duly commissioned and qualified; and that to his acts and attestations as such full faith and credit are and ought to be given in and out of Court.

[SEAL.] In testimony whereof, I have hereunto affixed the Seal of the Commonwealth, the date above written.

AMASA WALKER,
Secretary of the Commonwealth.

Interrogatories to Kilton and Jellison.

UNITED STATES OF AMERICA,
District of Columbia Circuit Court.

Mar. T. 1852.

BENJ. C. CLARKE and al., *vs.* FERDINAND CLARK.

Interrogatories to be proposed to John Kilton and Zachariah Jellison, of Boston, in the State of Massachusetts, on the part of the Pl'tiff in said cause:

First.—What is your name, age, residence, and occupation?

Second.—Do you know Ferdinand Clark, the def't in the above-entitled action, and how long have you known him?

Third.—What trade or business did the said def't pursue up to the year 1841, and where did he carry it on?

Fourth.—If you say that for any time prior to 1841 the said defendant was a merchant in Havanna, in the Island of Cuba, state when he left said Island, and to what place he then came, and how long he resided there.

Fifth.—Where did said Ferdinand Clark reside in the year 1842, and where has his place of residence been since that time?

Sixth.—Did said Ferdinand at any time have his place of permanent abode in New Hampshire? If yea, when, where, and for how long?

C. G. RIPLEY, for Pl'tiff.

Defendant to same.

U. S. OF AMERICA,
District of Columbia, C. C.

Mar. T. 1852.

B. C. CLARK et al., *vs.* FERD'D CLARK.

Interrogatories to be proposed on the part of the def't to John Kilton and Zacharias Jellison, both of Boston:

1. Have you, or either of you, had any difficulty of long standing? and how long with the def't? Have you spoken to him for twenty years?

2. Have you, or either of you, any business with said Clark in the years 1841, 1842, or 1843?

R. CHOATE, Counsel for def't.

Deposition of J. Kilton.

B. C. CLARK et al., *vs.* FERDINAND CLARK.

On the 3d day of May, 1852,

John Kilton, being duly sworn and examined on the Interrogatories and Cross-interrogatories hereto annexed preceding this deposition, deposed as follows:

To the first Interrogatory, the said John Kilton answers,

My name is John Kilton, age about fifty, residence Boston, occupation merchant.

To the second Interrogatory, he answers,

I do know said Ferdinand Clark, and have known him for many years, more than twenty years.

To the third Interrogatory, he answers,

He was a merchant, and did business in Havanna, Cuba. I believe he did some business in Boston before he went to Havanna, but I am not certain.

To the fourth Interrogatory, he says,

It was in the year 1841, according to my best recollection, that said Ferdinand left Havanna. He arrived in New York, I think, in

the summer of 1841. I saw him afterwards in Boston that same summer or fall. He was there staying with his brother Isaac. He said Ferdinand had a house at Hubbardston, in Massachusetts, which was the old family homestead. I have heard Ferdinand speak of his having made an addition to the house, and of its being furnished for him, and have heard him call it his place. I saw him several times in Boston, and then I would miss him, and learn he was at Hubbardston He was back of between Boston and Hubbardston, as I supposed. When in Boston, it was his custom to stay at his brother Isaac's. I have seen him but very few times in Boston for the last seven or eight years, and do not know, of my own knowledge, where his place of residence has been for that time. I have been informed that during some part of it, he stayed with his sister, Mrs. Whiting, in Roxborough.

To the fifth Interrogatory, he answers,

In the year 1842 I was informed that his place of residence was in Hubbardston. I so learnt in answer to my inquiries from his brother Isaac. I cannot answer the rest of this question more definitely than I have already done.

To the sixth, he answers,

I never heard of his residing in New Hampshire at all.

To the 1st Cross-interrogatory, he answers,

I have had no specific difficulty with him that I recollect. I have not felt any particular attachment to him, nor have I considered him a friend to me. I have spoken to him many times, and have had considerable conversation with him within twenty years. I always speak to him when I meet him, and always have, with, perhaps, one or two exceptions, when I have been in hurry, and could not spare time to talk with him, as he generally makes long talks.

To the 2d Interrogatory, he says,

My business with Ferdinand Clark was prior to July, 1841. I don't remember having any business of any consequence with him since that time. I may have had some business with him in the first half of the year 1841, but don't recollect the particulars now.

JOHN KILTON.

Deposition of Jellison.

B. C. CLARK et al., *vs.* FERDINAND CLARK.

On the 3d day of May, 1852, Zachariah Jellison being duly sworn and examined in the Interrogatories and Cross-interrogatories hereto annexed and addressed to him,

Deposed as follows:

To the 1st Interrogatory, he answers,

1st. Zachariah Jellison; age, sixty-two; residence is Boston; occupation, merchant.

2d. To the 2d Interrogatory, he answers,

I do know said Ferdinand Clark, and have known him personally since the year eighteen hundred and twenty-three.

3d. To the 3d Interrogatory, he answers,

I first knew him personally in the Havanna. He was a merchant there, and transacted the business of a commission merchant, I think. He continued in business in Havanna up to the year eighteen hundred and forty-one or two, as near as my memory now serves me as to the date he left Havanna.

To the 4th Interrogatory he answers. I have just said he was a merchant in Havanna, in the Island of Cuba, for many years. I am not positive when he left said island, but my impression is in eighteen hundred forty-one or two. It was about that time, according to my best recollection, he returned to his sister's place in Massachusetts, to a town called Hubbardston. I cannot tell how long he resided there, certainly, but I suppose he continued to reside there until within the last year. After his return from Havanna, until within the last year, I used frequently to meet him in Boston at the Post-office, or about there,—the Merchant's Exchange building in State Street.

To the fifth he answers,

I have before expressed a doubt as to the precise year in which he returned from Cuba, but for the year succeeding his return to this country he was residing at Hubbardston, so far as I know. I never saw him there, but understood from common report that he lived at said Hubbardston, and I never heard of any change in his place of residence until within the last year.

To the sixth Interrogatory he answers,

He never had his place of permanent residence in New Hampshire, to my knowledge, though I have heard within the last year that at some time he resided in New Hampshire for a short period.

To the first *Cross*-interrogatory he answers,

I have had no difficulty with the defendant other than that he formerly transacted business for me in Havanna, and for good and sufficient cause I withdrew that business, and he was very much offended; I was not offended with him, and had no quarrel with him. After I withdrew my business from him, he and his brother wrote me some rather insulting letters, but I made no reply except by returning the letters to the writers. I spoke to him when I last saw him in Cuba, in the winter of eighteen hundred and forty and forty-one. I have only met him casually since he has been in this country, going in and out of the post-office building, and did not speak with him on either of those occasions; I would not seek to have any personal intercourse with him, not because I feel any hostility to him, but because I do not esteem him or respect him. If he should speak to me, I should, of course, reply to him so far as the occasion might require.

To the 2d Cross-interrog. he answers.—None whatever.

Z. JELLISON.

On the third day of May, A.D., 1852, before me, a justice of the peace, in and for the County of Suffolk, and Commonwealth of Massachusetts, at my office in Boston, appeared the above-named John Kilton and Zachariah Jellison, and being cautioned and sworn, they were separately examined by me upon the annexed interrogatories and cross-interrogatories, and respectively testified as in in the respective depositions above is set forth, and their said respective answers being read over to them, they severally subscribed the same in my presence.

J. L. ENGLISH,
Justice of the Peace.

UNITED STATES OF AMERICA,
District of Columbia.

U. S. Circuit Court.

B. C. CLARK & AL.
vs.
FERDINAND CLARK.

Interrogatories to A. Wendall.

Interrogatories to be proposed on the part of the pl'tff in said said cause, to Abrahain Wendell, of New York.

1. What is your name, age, residence, and occupation? and do you know or have you at any time known Ferdinand Clark, the defendant in the above entitled cause? If yea, when, and how long, and how intimately have you known him?

2d. Declare whether or not said defendant, at any time or times, and if yea, when and where, prior to April 9, 1845, conversed with you respecting any, and if any, what claim or claims of the d'f't upon the Republic of Mexico? If yea, declare all he said respecting the same, so far as you can recollect.

C. G. RIPLEY, *for Pl'ff.*

Cross-interrogatories to same.

Cross-Int. to be addressed to Wendall, of New York, by defendant.

1st. Have ever had difficulties or a difficulty of any kind with said d'ft? if yea, state what.

2d. Are you now or have you been for a long time on speaking or friendly terms with said d'ft?

R. CHOATE, *for Df't.*

U. S. OF AMERICA,
District of Columbia, Circuit Court.

B. C. CLARK et al. *vs.* FERDINAND CLARK.

Interrogatories to M. Dougherty.

Interrogatories to be proposed by the pl'tff in the above cause to Michael H. Dougherty, of New York.

1st. What is your age, residence, and occupation?

2d. Do you know the defendant in this action, and how long have you known him?

3d. Declare whether or not you know anything respecting any, and if any, what claim or claims of the df't upon the Republic of Mexico, prior to 1845? If yea, what the nature of that claim, and what, if any, was the value thereof? (Objected to as incompetent.)

4th. Declare whether you have ever, prior to said date, had any conversation with df't respecting said claim, and its character or value. If yea, when and what, if anything, did the df't say concerning it?

(Objected to as incompetent.)

5th. Do you know any other matter or thing material or important, or which may be of benefit to the pl'tff in said suit? If yea, please state the same as fully as if particularly interrogated thereto.

C. G. RIPLEY, *For Pl'tff.*

Cross-interrogatories to M. Dougherty.

Cross-interrogatories proposed to Michael H. Dougherty.

1st. State whether or not the claim mentioned had its value in any way affected by the Mexican war, and how.

2d. State whether or not you had any interest, and what, in the vessel or cargo.

3d. State whether or not you are on friendly terms at present with d'ft, and whether you have always been so since 1840, and how otherwise.

R. CHOATE, *For D'ft.*

U. S. OF AMERICA,
District of Columbia.

Circuit Court. March Term, 1852.

B. C. CLARK & al. *vs.* FERDINAND CLARK.

Interrogatories to J. H. Stewart.

Interrogatories to be proposed on the part of the pl'tffs in said cause to J. Hopkins Stewart, of New York, counsellor-at-law.

First. What is your name, age, residence, occupation?

Second. Do you know Ferdinand Clark, the defendant in the above cause, and how long, and how intimately?

Third. State where said defendant resided or was commorant, and what he was doing in the year 1841, and 1842, and 1843, or either of them if you know, and state also your means of information.

Fourth. Do you know any other matter or thing which may be material or of benefit to the pl'tff in said cause? If yea, please state the same as fully as if particularly interrogated thereto.

C. G. RIPLEY, *For Pl'tff.*

U. S. OF AMERICA,
District of Columbia.

C. C. March Term, 1852.

B. C. CLARK & al. *vs.* FERD. CLARK.

Interrogatories to same by Defendant.

Interrogatories to be proposed to J. Hopkins Stewart, of New York, on the part of the df'dt in the above entitled suit.

1st. Have you ever had any difficulty with the defendant, and what, and of how long standing, if any?

2d. Has not said Clark, defendant, at any time charged you with collecting and misappropriating a large sum of money belonging to him? and has he not complained of your allowing sundry suits at law against him to go by default, and has not this been a standing difficulty between you?

3d. Where did you live in the years 1841, 1842, and 1843?

4th. Have you no interest, direct or contingent, in the event of this suit, and have you never said that you were to have fifteen thousand dollars if pl'tffs were successful, or in any other event?

R. CHOATE, *Counsel for Df't.*

U. S. OF AMERICA,
District of Columbia. Circuit Court.

B. C. CLARK & al., Pl'tff.
vs.
FERDINAND CLARK.

Agreement of Counsel.

It is agreed that any testimony to be taken by the pl'tffs in said

cause, in the City of New York, may be taken by William Emerson, Esq., a commissioner for Massachusetts, resident in said city.

April 24, 1852. R. CHOATE.

C. G. RIPLEY, *For Pl'tff.*

Certificate by Commissioner.

I certify that the annexed depositions of Abraham Wendall, Michael Dougherty, and J. Hopkins Stewart, were taken by me in the City of New York.

New York, July 1, 1852.

WM. EMERSON.

Deposition of Abraham Wendall, a witness, produced, sworn, and examined at the City of New York, on certain interrogatories hereto prefixed, in a certain cause pending between B. C. Clark et al., plaintiffs, and Ferdinand Clark defendant.

Deposition of A. Wendall.

1. The said witness, being first examined upon the interrogatories on the part of the plaintiffs, deposes as follows:

To the first Interrogatory, he says,

My name is Abraham Wendall. I am in the fifty-fourth year of my age. I reside in the City of New York. I was formerly a ship-master, and I am now a broker of merchandise and passengers. I know the defendant, Ferdinand Clark, and have known him ever since the year 1825 or 1826. I have known him very intimately, and have corresponded with him very extensively.

2. To the second Interrogatory, he says,

I was repeatedly consignee to said Ferdinand Clark at the Havanna, and on those occasions I was much at his house, and was intimate with him. On a voyage to the Havanna, which I made in 1838, I was imprisoned for five months, and my whole stay was about nine months. During this time said Clark conversed with me a great deal about his claims on the Mexican government; he told me that he had two claims on said government, one for a vessel of his that was seized in the port of Tobasco, and the other for one seized in the Gulf of Mexico by a Mexican armed vessel; one of his vessels so seized, he said was named the Louisiana. I don't recollect any other particulars in answer to this interrogatory.

The same witness being further examined on the *Cross*-interrogatories hereto prefixed on the part of the defendant, deposes as follows:

1. To the first Cross-interrogatory, he says,

I never had any difficulty or difficulties of any kind with said defendant.

2. To the second Cross-interrogatory, he says,

I have always been on friendly or speaking terms with the defendant ever since I knew him. The last time I saw him was on a friendly visit I paid him when confined in the Eldridge Street prison in this city.

A. WENDALL.

Sworn and examined, and by said witness, Abraham Wendall, subscribed, this 26th day of April, 1852, before me.

WM. EMERSON, *Comm'r.*

The deposition of Michael Dougherty, a witness, produced, sworn, and examined at the City of New York, upon certain interrogatories hereto prefixed.

Deposition of M. Dougherty.

1. The said witness being first examined upon the interrogatories proposed on the part of the plaintiffs, deposes as follows:

To the first Interrogatory, he says,

I am about sixty-four years of age. I reside in the City of New York. I have no particular occupation or business; I was formerly a shipmaster and merchant.

2. To the second Interrogatory, he says,

I know the defendant in this action, Ferdinand Clark, who formerly did business in Havanna as a merchant, and now resides in the United States, at a place called Hubbardston, as I have been informed.

3. To the third Interrogatory, he says,

During the time that the first commission was sitting at Washington, for the adjustment of the claims of American citizens on the Republic of Mexico, the defendant arrived here from the Havanna, and prepared and forwarded to Washington his papers showing his claim against Mexico. The claim was for the cargo of the schooner Louisiana, which had been seized and confiscated by the Mexicans. The papers were not received in Washington in time to be acted on by the Mexican Commissioners, although the American Commissioners admitted the claim. In consequence, no award was made by the first commission; but the claim was renewed before the second commission, and allowed by them. I had at the time frequent conversations with said Ferdinand Clark, and knew of the matters above stated from him.

4th. To the *fourth* Interrogatory, he says,

I was the owner of the schooner Louisiana, and had myself a claim against the Mexican Government on that account. I therefore joined with Ferdinand Clark in presenting a petition and papers to

the first Mexican Commission to obtain his claim and mine, and I paid the whole expense of preparing these joint papers.

This occasioned my having frequent conversations with said Clark on the subject of his claim for the cargo. He stated the amount of his claim, without interest, at about $33,000 or $34,000. I cannot state the exact amount; said Clark always spoke of it at that time as a certain claim, which must be received at some time or other.

5. To the fifth Interrogatory, he says,

I think, after said Clark's arrival from the Havanna, he resided in New York City at least two or three years. I think that said Clark arrived in New York from Havanna in the summer of 1841, and continued to reside here from that time forward. Said Clark always went by the name of Ferdinand Clark, so far as I knew, until about three years ago. About that time, as I was attending to my claim on the Mexican Commissioners, and preparing my papers, I found that in letters which I received from Clark, he signed his name with a middle letter; I think it was "J." When I saw him afterwards, at the Pearl Street House, in Boston, I asked an explanation of this from him, and he answered that he had had occasion to get a letter put into his name by some legislature, which he named, but which I have forgotten.

These letters I handed to my son with other papers, and I believe they are with other papers in Washington.

M. DOUGHERTY.

The same witness, Michael Dougherty, on the CROSS-interrogatories hereto prefixed, deposes as follows:

Deposition on Cross-interrogatories by M. Dougherty.

1. To the first Cross-interrogatory, he says,

I do not know that the value of the said claim was in any other way affected by the Mexican war, than that all proceedings to enforce the claim were suspended during the continuance of that war.

2d. To the second Cross interrogatory, he says,

I was the owner of three-fourths of the vessel, the schooner Louisiana.

3d. To the third Cross-interrogatory, he says,

I have never been otherwise than on friendly terms with the defendant, and have never had any dispute with him.

M. DOUGHERTY.

Sworn and examined, and by the said witness, Michael Dougherty, subscribed, this 26th day of May, 1852, before me.

WM. EMERSON,
Commissioner.

The deposition of Joseph Hopkins Stewart, in answer to the interrogatories hereto prefixed.

Deposition by J. H. Stewart.

The said Joseph Hopkins Stewart, being sworn and examined at the City of New York as a witness in the cause named in the caption of the annexed interrogatories, deposes as follows:

1st. To the first Interrogatory on the part of the plaintiffs, he says,—I am forty years and ten months old; I reside in the City of New York, and a lawyer by profession and occupation.

2d. To the second Interrogatory, he saith,

I do know Ferd'd Clark the defendant. Have known him since 1834. He then visited his brother-in-law, William Reumetiff, of Herkimer County, New York, since deceased, at which time this deponent was introduced to him, and since that time I did not see him again until June, 1841. I corresponded with him in the mean time, always addressing him at Havanna, Cuba, his then residence.

In July, 1841, he arrived in this city, and after that until late in the year 1843, I knew him intimately; said intimacy was of the character incident to our relations as attorney and client, which intimacy continued with apparent mutual confidence until I discovered in him a total want of honor and honesty in his dealings, which discovery took place early in the year 1843.

3d. To the third Interrogatory, he saith,

He arrived in the City of New York, in June, 1841, and I believe he remained domiciled in said city until the latter part of the year 1843; said Clark and myself boarded at the same house together from the time of his arrival in June, 1841, until some time in February, 1842; said Clark remained at said boarding-house until late in the summer or fall of that year, and said Clark was also in this city in December, 1843, and January, 1844. I believe he remained in said city from his arrival till January, 1844, without changing his place of abode, except for a short time in the fall of 1842, when said Clark absconded from said city, and was afterwards arrested, as I was informed, by some officer, and brought to the City of New York, and was then and there lodged in prison, and remained confined for several months. After his release from prison, I lost sight of him, and cannot say whether he continued in the City of New York or not.

During the whole time he was in the City of New York, he was engaged in defending lawsuits brought against him by creditors, in writing a book against our former Consul at Havanna, N. P. Trist, Esq., and in giving directions as to his ships, &c. The sources of my information are personal knowledge, being his attorney in the defence of many suits, having seen the manuscript of said book,

either in his own handwriting or that of my clerk, G. D. A. Parker, and having had frequent conversations with him, said defendant, as to his plans of starting business in this city. Said Clark was sued on a large number of bills of exchange, drawn in Havanna, on the house of Clark & Co. of this city, which bills of exchange were protested in some instances for non-payment, and in some instances for non-acceptance. Said bills or drafts were made by said Clark in Havanna a short time before he left there; he left Havanna a short time after, or about the time said drafts were protested, and came to New York to avoid being arrested in Havanna. Said Clark knew at the time he made said bills of exchange or drafts on said house of Clark & Co., 63 Water Street, in the said City of New York, that said house was utterly insolvent, and had not of itself, and never had any means or capital with which to transact business or meet its liabilities.

I further state that said Clark, after his arrival in the city of New York, had in his possession and under his control large sums of money and evidences of debt due him, and that he had or pretended to have large claims upon the Mexican government. That he had or claimed a large interest in certain vessels. That he claimed to own a certain vessel called the Delta, and also claimed another vessel called the ship Hews, and also another vessel called the brig Alexandria, and I believe he also had or claimed to have a large interest in a vessel known as the steamer Clarion. I remember his speaking of some claims against the United States government, then in the hands of a lawyer in Washington, whose name I think was Coxe. I always heard him value the claim against the Mexican government as certain and of a large amount, not less than 60 or 70,000 dollars.

Why I state that said Clark had in his possession and under his control large sums of money, immediately after his arrival in the city of New York, is, first, because I was present when he landed from the ship at the quarrantee landing, Staten Island, in June, 1841, and there saw in his possession some 16 or 17 trunks or pieces of baggage, and some of them contained papers, books, &c. They were then opened in my presence. I afterwards saw many of them opened at his boarding-house, and saw in his possession large amounts of money in gold, and also saw a number of drafts and bills of exchange. I remember he took out from a packet of papers, apparently drafts or notes, a draft on a Mr. Ballister for $1200, and handed it to me to collect, which I did and returned to him the cash. I also collected and received as funds belonging to Clark & Co., a large sum and paid it to him, Ferdinand Clark, thereof in all perhaps $2000; cannot state the precise sum without reference to my memorandums. Why I state that F. Clark while here was engaged in managing and giving instructions in regard to his ships, and that he pretended to own them as aforesaid is, because I have letters, memorandums, &c., in my pos-

session, in which Ferdinand Clark holds himself out as the owner, and dictates instructions in regard to the sale, &c.

4th. To the 4th Interrogatory he saith,

I can state that I know the said Ferdinand Clark to be dishonest and unjust in his dealings, and not a man of truth and veracity. As evidence of his readiness to resort to the most unjustifiable courses to avoid the payment of claims against him, I would state that I have in my possession the original affidavits of F. Granja and A. G. Beck, hereto annexed, marked Nos. 1 and 2, and an application to the recorder of this city for a warrant against said Clark, under the Act of this State entitled, "An Act to abolish imprisonment for debt and to punish fraudulent debtors," together with the affidavit hereto annexed marked No. 3 (copied p.), made by said Clark on the return of the warrant, in which, among other things, he swears that he has not within or under his control unappropriated money or property; whereas I know of my own knowledge that said Clark had at that time in his possession and under his control, a large amount of cash, evidences of debts and other property and choses in action. And I have also reason to believe that he held at the same time a paper purporting to be a bottomry bond on the brig Delta, to secure the sum of six thousand five hundred dollars, from the fact that on or about the second of October, 1842, he gave me notice by letter, a copy of which is annexed marked No. 4 (copied at p. 406), that he had that day conveyed a bottomry and respondentia bond on the block and freight of the brig Delta, given by Justice Clark, of Boston, June 25, 1834, in my (Clark's) favor, for six thousand five hundred dollars with interest, to (my wife) Mrs. Louisa Martha Stewart, of New York, the consideration for which is stated in the same letter to such transfer, and the validity of this consideration he and his brother, Isaac Clark, had previously testified in certain libel proceedings, instituted against said said brig by Wiggins & Davenport, of New Orleans, whereas I aver the truth to be that Mrs. Stewart had not at the time they so testified advanced any consideration whatever, for any bottomry bond, and that she had never received any such bond, nor knew of its existence, and I also aver that the true date of the transfer to Mrs. Stewart was October 2d, 1842, and that the date was changed by some person unknown to me in 1841, in order to antedate the said libel proceedings, and that previous to Oct. 2d, 1842, the transfer of said bond was never actually made, or contemplated, and that therefore, both in regard to the fact of the transfer, and the validity of the consideration, the testimony in the said affidavit was untrue.

And in further corroboration of the truth of my statements in respect to the character of Ferdinand Clark, I also annex to this deposition the paper marked No. 5 (copied at p. 406); the history of the transactions with which it is connected, is briefly as follows:

In August, 1841, I received from one John Kilton, at Boston, on account of Clark & Co., $8500, and at the same time a voucher, or certificate, signed by him, that all over that sum would be a proper charge against said Kilton on the books of Clark & Co. By some means unknown to me, Ferdinand Clark obtained possession of this certificate, together with the annexed paper, No. 5, which was a copy of the certificate without the signature, and some time afterwards brought the above paper, marked No. 5, to me, with the words commencing on the fifth line, after the words Clark & Co., added thereto, and requested me to sign it, which I refused to do. The addition I believe to be the handwriting of said Clark, though somewhat disguised. The object was to evade the payment of a note held by one George P. Burrell against Clark & Co., by making it appear that the $8500 were his individual funds, and not those of Clark & Co.

1st Cross-interrogatory.

To the first cross-interrogatory on the part of the defendants, the witness saith:

I have to state that I have had some difficulty with Ferdinand Clarke, but never of such a character as in the least to excite any hostile disposition on my part. I have always, since I discovered evidences of his rascality, entertained towards him a feeling of contempt, and that has been since the middle or latter part of 1842. My only dispute or difficulty with him, grew out of, and was in regard to, his evident effort to cheat and defraud said George P. Burrell.

2d Cross-interrogatory.

To the second cross-interrogatory he saith:

I admit that I have understood that said Clark has charged me, but never in my presence, with having collected and misappropriated a large sum of money belonging to him; but said charge was false, wicked, and malicious. So far from having collected any money belonging to him, and misappropriating the same, he will be found upon settlement of accounts largely my debtor. In answer to the latter part of the interrogatory, I admit that he may have complained, but never in my presence, of allowing sundry suits at law against him to go by default. If he has so complained, I aver that the said complaints were without the least color of truth or foundation, and I am not aware that it has been a standing difficulty between us; on the contrary, it is true that no suit went by default, and his suits under my charge were defended as long as it was possible.

3d Cross-interrogatory.

To the third cross-interrogatory he saith:

I lived in the City of New York in each year, viz., 1841, 1842,

and 1843. I boarded in the same house with Ferdinand Clark, at No. 1 Ann Street, in said city, from some time in June, 1841, to some time in February, 1842. Then I moved to Bank Street till the first of May, 1843, and from thence removed to Vandewater Street, and remained there some two years.

4th Cross-interrogatory.

To the fourth cross-interrogatory he saith:

I have no interest, direct or contingent, in the event of the suit. I have never said, to the best of my knowledge, recollection, and belief, that I was to have fifteen thousand dollars, if plaintiff was successful, or in any other event. I may have said that the creditors of Ferdinand Clark ought to pay me a large sum, and may have named $15,000 for services rendered in and about the business of enforcing their claims against a fund in the Secretary of the Treasury's hands at Washington; and I will say that I have tried to enforce the consideration of my services upon their minds, so as to get from them a definite agreement; but thus far I have not been able to do so in any way. On the contrary, they have repudiated my pretensions thus far; and B. C. Clark, in whose name the suit is pending, has thus far refused to pay any compensation for services rendered, even to the sum of fifty dollars, and always refused to make, directly or indirectly, an agreement with me as to any interest I should have.

J. H. STEWART.

Taken, sworn, and examined, and by the said witness, J. Hopkins Stewart, subscribed this 26th day of June, 1852, before me.

WM. EMERSON,
Commissioner.

No. 1. *Warrant.*

No. 1.

To FREDERICK A. TALMADGE, ESQUIRE,
Recorder of the City of New York.

The application of John Granja for a warrant to arrest Ferdinand Clark against whom he has commenced a suit in the Supreme Court of judicature of the People of the State of New York, upon the grounds set forth in the affidavit hereunto annexed.

Dated 4th January, 1842.

JOHN GRANJA.

STATE OF NEW YORK,
County of New York.

John Granja, of the City of New York, being duly sworn, doth depose and say that Ferdinand Clark, late of Havanna, but now in

the City of New York, is justly indebted unto this deponent in the sum of sixteen hundred and forty-five dollars and interest, on four several drafts or bills of exchange drawn by him, and for which the said Ferdinand Clark, according to the provisions of the act to abolish imprisonment for debt and to punish fraudulent debtors, cannot be arrested or imprisoned; that this deponent has instituted a suit in the Supreme Court of this State against the said Ferdinand Clark for the recovery of said demand. And this deponent further says that he has reason to believe, and does believe, that the said Ferdinand Clark is about to remove his property out of the jurisdiction of the said court, with intent to defraud his creditors, and that the grounds of that belief are as follows:—That prior to the month of May last the said Ferdinand Clark resided in Havanna, in the Island of Cuba, and was reputed to be a wealthy and successful merchant, and worth more than one hundred and fifty thousand dollars. That a short time prior to said month of May, he drew drafts, as deponent has been informed and believes, on the firm of Clark & Company, of New York, for a sum exceeding forty thousand dollars, for which, in most if not all cases, he received cash or a valuable equivalent; that said drafts were drawn at sixty days sight and accepted by Clark & Company, in New York, but all protested for non-payment. That said Clark left Havanna about the time said drafts were protested and came to New York, to avoid, this deponent believes, being arrested on said drafts in Havanna; that deponent has reason to believe and does believe that the said firm of Clark & Company was insolvent when said drafts was drawn, and that said Clark knew it and that he never intended to pay said drafts; that said Clark has frequently promised to pay deponent for said drafts, but has hitherto neglected so to do, and has lately declared his intention of leaving the United States and going to England, or some distant parts out of the United States; that deponent verily believes that the said Clark has now with him or under his control a large sum of money, and that he intends taking the same with him out of the jurisdiction of the Supreme Court and disposing of it as to defraud deponent of his aforesaid just demands.

And this deponent further says that from the facts and circumstances above stated, he verily believes that the drafts so held by deponent, on which the said suit against the said Ferdinand Clark is brought, were fraudulently issued by him, knowing at the time the entire insolvency of the firm of Clark & Company, and intending to convert the money received on the sale of said drafts to his own use, and never to pay for the same. And this deponent further says that he has not been able to ascertain, nor does he believe that the said Clark has paid any considerable part of the said drafts, so as aforesaid amounting to forty thousand dollars, and on which he received value when issued, but verily believes he still retains and conceals

all of the said moneys and his other property, with the intention of removing the same out of the jurisdiction of the Supreme Court into some foreign country to defraud deponent and his other creditors.

JOHN GRANJA.

Sworn before me this 4th day of Jan'y, 1842.
W. E., *Comr.*
F. A. TALMADGE, *Recorder of New York.*

No. 2. Affidavit of G. Beck.

No. 2.

CITY AND COUNTY OF NEW YORK, *ss.*

Adolphus G. Beck, being duly sworn, says that he has known Ferdinand Clark about four or five years; that said Clark, until within a short time past, resided in Havanna, and was reputed to be very wealthy, and deponent verily believes is still wealthy.

And this deponent further says, that the said Clark is now in New York, and has been here for three months or more last past; that he was indebted to John Granja of said city, in the amount of four drafts or bills of exchange, held by said Granja, amounting to about sixteen hundred and forty-five dollars, besides interest, and he promised to pay the same.

And this deponent further says, that the said Clark lately informed deponent that he intended soon to leave this country for Europe; and this deponent verily believes that the said Clark has with him or under his control a large amount of money and property, which he intends to remove with him beyond the jurisdiction of this Court, to defraud the said John Granja.

A. G. BECK.

W. EMERSON, *Com'r.*

Sworn before me this 4th day of January, 1841,
F. A. TALMADGE,
Recorder of New York.

The said last-mentioned document No. 2, is thus indorsed. "I certify the within to be true copies of the original affidavits, on which the warrant in this matter is issued." "New York, Jan'y 4, 1842."

F. A. TALMADGE,
Recorder of the City of New York.

IN THE MATTER OF COMPLAINT
vs.
FERDINAND CLARK.

No. 3. *Affidavit of F. Clark.*

No. 3. W. E., *Com'r.*

CITY AND COUNTY OF NEW YORK, *ss.*

Ferdinand Clark, of the City of Havanna, in the Island of Cuba, and now resident of New York aforesaid, being duly sworn doth depose and say, that he was arrested on the seventh of January, inst., upon a warrant issued under the fifth section of the Act to abolish imprisonment for debt, and to punish fraudulent debtors, and that first, in contradiction of the affidavit made by John Granja, that the said John Granja has not commenced a suit in the Supreme Court, as against this deponent, for the recovery of the sum of sixteen hundred and forty-five dollars and interest on four several drafts or bills of exchange, and that the suit if any is only brought for the recovery of a part of said demand, and that he has fully and freely stated his defence to Geo. K. Osborn, Esq., his counsel, who resides in the City of Brooklyn, and that he believes he has a substantial defence to the whole or some part of the plaintiff's demand, as he is advised by said counsel and verily believes to be true; and further this deponent saith, that it is not true that he drew drafts on the firm of Clark & Co., of New York, a short time previous to the month of May last, for a sum exceeding forty thousand dollars, but that on the contrary this deponent only made comparatively a small amount of drafts on the said Clark & Co., to meet which drafts this deponent placed in the hands of said Clark & Co. ample means of and belonging to this deponent, and in good faith intended that those means should be applied towards the payment of all the drafts he made upon Clark & Co., and further, this deponent denies any knowledge of the insolvency or approaching failure of the said house of Clark & Co., before he left the Havanna, and says, that he did not have the least intimation of such failure, until he had arrived at Quarantine Landing at Staten Island. This deponent denies that all of his said drafts were accepted by Clark & Co., and that he received cash in all instances for said drafts, and further, this deponent denies that he left the Havanna with the design of avoiding the payment of said drafts, or avoiding an arrest on said drafts, and that when he left the Havanna, he publicly took out the necessary passport, and that he came to the United States, for the sole pur-

pose of visiting his relations, renovating his health, and making arrangements for the further and more successful prosecution of his mercantile business at the Havanna. And this deponent further saith, that he hath not to the best of his recollection, declared his intention of leaving the United States, either for the purpose of going to England, or to some distant parts of the United States. He may have said he intended going to Boston upon a visit, but not until he had settled his business in this State. This deponent admits that he has been acquainted with Adolphus G. Beck for some four or five years; that said Beck, was once a clerk in this deponent's counting-house at the Havanna, and this deponent was obliged to dispense with the services of the said Beck, because of his irascible temperament, and this deponent's want of confidence in said Beck's integrity. And this deponent denies ever admitting to the said Beck that he was indebted to the said John Granja in the amount of four drafts or bills of exchange.

This deponent was not aware, nor is he now aware, that said John Granja held or now holds any of this deponent's bills of exchange, and that if he now holds them, that they never have been presented to this deponent by said Granja or his agent. And this deponent denies ever informing the said Beck that he intended leaving the United States for Europe, and further says, that he has not within or under his control, unappropriated, any money or property, or which he intends removing with him beyond the jurisdiction of this Court, to defraud the said John Granja. And further, this deponent saith, that after the said bills of exchange became due, and while they were in the possession of Jose M. Salnero, and his property, an arrangement was made with the then holder of the said bills of exchange, and one J. J. Aguine, the agent of the said defendant, by which arrangement the said holder agreed to receive payment at the Havanna, and to extend the payment of said bills of exchange for a definite time, which period has not yet arrived.

This deponent says that he does not intend to leave the jurisdiction of this Court or this State, or return to the Havanna, until he shall have finished all of his business.

And further this deponent saith, that he did not inform the said Beck that he either intended to leave the State and go either to England or the Havanna, or to distant parts of the United States; but that, on the contrary, he expressly told said Beck that he did not intend leaving for Europe when asked by said Beck; and that he replied to said Beck that it was not his intention to leave at all for Europe, or go to the Havanna, until he had arranged his business in this city, which would require a long time.

FERDINAND CLARK.

Sworn to the 12th day of January, 1842.

F. A. TALMADGE.

No. 4. F. Clark's letter.

No. 4.

NEW YORK, Dec'r 2d, 1842.

JOSEPH H. STEWART,
New York.

DEAR SIR—I have this day conveyed a bottomry and respondentia bond on the block and freight of the brig Delta, given by Justus Clark of Boston, June 25, 1834, in my favor, for six thousand five hundred dollars, with interest, to Mrs. Louisa Martha Stewart, of New York, in consideration of a certain sum of money due to her from Clark & Co., of this City, amounting to four thousand and five hundred dollars, and the residue of the bonds to be applied to the disbursements of the ship Hews.

F. CLARK.

I admit that Mrs. Stewart has received the above bottomry bond, as security aforesaid, Oct. 2d, 1842.

J. H. STEWART,
Att'y for Mrs. Louisa M. Stewart.

W. E., *Com'r.*

No. 5.

BOSTON, Aug. 4, 1841.

This certifies, that of the funds brought from New York by me on 6th ulto., being balances in the Banks, &c., to the credit of Clark & Co., over eight thousand five hundred dollars, will be a proper charge against me on the books of Clark & Co., and eight thousand and five hundred dollars, has been paid to Mr. Stewart, attorney for Ferdinand Clark.

W. E., *Com'r.*

Copy.

I hereby consent that from nine thousand dollars, deposited in Atlantic Bank by Messrs. J. Burnstead & Son, by request of John Kilten, five hundred dollars shall remain for the private use of said Kilton.

J. H. STEWART.

BOSTON, Aug. 4, 1841.

UNITED STATES OF AMERICA,
District of Columbia.

Cir. Ct. Mar. T., 1852.

B. C. CLARK et al.
vs.
FERDINAND CLARK.

Interrogatories to Fernald.

Interrogatories to be addressed to Ammi Fernald, of Portsmouth, in the State of New Hampshire, a witness to be examined on the part of defendant, in the above entitled suit.

1st. What is your name, age, occupation, and place of residence?

2d. Whether or not were you connected with the Clerk's office of the District Court for the District of New Hampshire, during any time, and what time and in what capacity?

3d. State whether or not you were assistant clerk in said office during the operation of the bankrupt law of the United States, passed in 1841, and whether you were familiar with the proceedings of Courts and parties in cases arising under said law.

4th. State whether or not it was unusual for assignees of bankrupts under said law to fail to make return to the Court of sale of bankrupt's assets, made under the order of Court, when such sales brought but a nominal sum, or how otherwise, or in any other, and what cases, and particularly state the practice of such assignees in regard to such returns, whenever sales did not produce enough to pay the expenses of such sales.

(Objected to as leading and incompetent.
C. G. RIPLEY, *for P'l'tff.*)

5th. Please examine the papers hereto annexed, marked *A.*, vide Rules, p. 270, 271, and from 275 to 287, and state whether it is a true copy of rules adopted by said Court on January 18th, 1843?

6th. State whether it was customary for such assignees to make such returns to the Court in a case or cases where the expenses of the proceedings amounted to twenty-five dollars, and the proceeds of sale amounted to two dollars, or cases of like disproportion between expenses and receipt; and was or not the practice of such assignees in regard to such returns, in any such cases, known at N. Y. to the Court, and if at all, to what extent?

(Objected to as seeking to introduce incompetent testimony.
C. G. RIPLEY, *for Pl'tff.*)

7th. Please examine the paper hereto annexed, marked *B.*, and state whether such paper is a true copy of the rules adopted by such Court on July 20, 1842. (Vide Rules, p. from 275 to 287, and 413.)

R. CHOATE, *for D'f't.*

The said p'l'ffs, not waiving their objections, but insisting thereon, propounded the following cross-int. de bene esse.

Cross-interrogatories.

First.—If you answer the fourth and sixth int. in the affirmative, declare how many cases you can swear to wherein the assets sold for $2, or a nominal sum, and the expenses amounted to $25, and how you know the assets did produce such nominal sum only. If the assignees made no return, and how you know that the Court did or did not know that the assets had brought such sum in cases where no returns were made, and what sources of knowledge you testify from in relation to the knowledge of the Court as to any of the practices inquired of.

C. G. RIPLEY, *for Pl'tffs.*

Deposition of A. Fernald.

I, Ammi R. H. Fernald, of Portsmouth, in the State of New Hampshire, having been duly sworn, do testify and say in answer to the foregoing interrogatories, as follows:

Answer to *first* Interrogatory.

My name is Ammi R. H. Fernald. I am nearly fifty years of age. I live in said Portsmouth, and I am Clerk in the Portsmouth Steam Factory.

Answer to second Interrogatory.

In March, 1842, I entered the office of John L. Hayes, Esq., Clerk of the District of New Hampshire, as a clerk, to write for him, and assist in making the records, &c., of said Court, and I remained with him in that capacity more than two years. I was merely assistant to Mr. Hayes, and I held no appointment from the Court or government.

Answer to the third Interrogatory.

I was assistant to Mr. Hayes as aforesaid from about the time said bankrupt law went into operation until after the repeal of the same. I was familiar with all the bankrupt business transacted in said office, and assisted in making and keeping the records, files, &c., in cases in bankruptcy. My business did not take me into the Courts, and I had no other familiarity with the transactions there than such as arose from my connexion with the records as aforesaid.

Answer to the fourth Interrogatory.

My recollection does not enable me to answer this question.

Answer to fifth Interrogatory.

I am unable to answer this question. Additional rules in bankruptcy were once or more times adopted by the Court, and I suppose the paper marked *A.* (vid. *Int.* 5th) to be a copy of rules adopted Jan'ry 18, 1843; but I have no definite recollection on the subject.

Answer to sixth Interrogatory.

I have no knowledge or recollection on the subject, and cannot answer this question.

Answer to the seventh Interrogatory.

I refer to my answer to the fifth Interrogatory. I presume the paper to be what it purports to be; but I have no recollection on the subject.

Answer to the *Cross*-interrogatory.

Refer to my answers to the fourth and sixth direct interrogatories.

AMMI R. H. FERNALD.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

On this nineteenth day of March, A.D. 1852, personally appeared Ammi R. H. Fernald, before me, Albert R. Hatch, a Justice of the Peace for the said county of Rockingham, and Clerk of the Circuit Court of the United States for the District of New Hampshire, and having been first duly cautioned and sworn, made answers to the annexed interrogatories as above by me recorded, and then subscribed the same, and made solemn oath that the same contained the truth, the whole truth, and nothing but the truth, relative to the cause in which they were taken. Said deponent was examined by me apart, and no person by myself was present with him during his said examination.

In witness of all which, I have hereunto set my hand and [SEAL.] the seal of said Court, the day and year aforesaid.

ALBERT R. HATCH.

Exhibits *A.* and *B.*, in the preceding int'y and deposition referred to, are copied at p. 275 to 287), except the following section of the Rules of July 20, 1842.

Exhibit B. Rules, July 20, 1842.

"*7th.*" "Every creditor who shall file a petition to have any person declared a bankrupt in invitum, or an involuntary bankrupt, shall prove his debt before a commissioner, in the manner and form prescribed by the rules, at or before the time of filing such a petition, mutatis mutandis. He shall also, at or before the time, execute a bond, with one or more sureties, to the United

States, in such sum and in such form as the Court shall prescribe for the payment of all costs which shall be awarded against him by the Court under the proceedings upon such petition, and the Court will enforce the payment of such costs by attachment, if necessary. He shall also make oath, or if conscientiously scrupulous of taking an oath, he shall make solemn affirmation of the truth of the facts stated in the petition, according to his best information, knowledge, and belief; but one partner of a firm or company may in such case make the oath or solemn affirmation, and give the bond, if the debts be due to the firm or company; and if the petition be by a corporation, the oath or affirmation, and the bond, may be by the same person, who is authorized by the Act of Congress to prove a debt due to the corporation."

UNITED STATES OF AMERICA,
District of Columbia.

Circuit Court, March Term, 1852.

B. C. CLARK and al.
vs.
FERDINAND CLARK.

Interrogatories to A. R. Hatch.

Interrogatories on the part of the pl'ffs in said cause to Albert R. Hatch, of Portsmouth, in the State of New Hampshire.

1. What is your age, residence, and occupation? If you hold any office in the United States District Court for the District of New Hampshire, please state what it is, and how long you have held it.

2. If any paper, purporting to be a bill of sale of the assets of Ferdinand Clark in bankruptcy, and to have been made by John Palmer, assignee of said Clark's estate, or what purports to be a copy thereof, has been delivered to you, and since you have held the office of Clerk of said District Court, please annex a copy thereof, and state when, and where, and by whom, said paper was presented to you, and what the person who presented said paper to you, requested to have done with it. What he said of said sale—of his connexion with said Clark, and of the nature of said sale, and of the time and place of holding said sale. And in what character or capacity he acted in the premises?

(Objected to as hearsay, and otherwise incompetent.)

3. If you have received any communication in writing from the person who gave or sent said bill of sale or said copy to you, in anywise referring to said sale, or said Ferdinand Clark, or said paper, please annex copies thereof.

(Objected to as hearsay, and otherwise incompetent.)

4. If the person who has made such communications in writing, has had any conversations with you in regard to any of the proceedings connected with the sale of said Clark's assets in his case in bankruptcy, please state the same fully and particular.

(Objected to as hearsay, and otherwise incompetent.)

C. G. RIPLEY,
For Pl'ff.

Said interrogatories are thus endorsed.

"Def't will not cross.

R. C.

Deposition of Hatch.

I, Albert R. Hatch, of Portsmouth, in the County of Rockingham, State of New Hampshire, Esquire, of lawful age, on oath, depose and say, in answer to the foregoing interrogatories, as follows, viz.:

To the first Interrogatory I answer,

I am thirty-four years of age; I live in Portsmouth, in the State of New Hampshire, and am an attorney and counsellor at law. I hold the office of Clerk of the District Court of the United States, for the District of New Hampshire, and have held said office, and acted therein since August, A.D. 1848.

To the second Interrogatory I answer,

About the last of May or first of June, A.D. 1851, Mr. Isaac P. Clark, of Boston or Roxbury, in the State of Massachusetts, sent to my office a paper, of which the paper hereto annexed marked (A), vide p. 169 and 419, is a true copy, enclosed in a letter, of which the annexed paper marked (*B.*) is a copy. He soon afterwards called at my office and spoke of said paper and letter (copied at p. 422). I am not able to repeat the whole of his statements or conversations; but I understood him to say that he acted in behalf of Ferdinand Clark or Roxanna M. Clark—I am not certain which—in support of his or her claim to a sum of money awarded by the commissioners on the Mexican claims at Washington to said Ferdinand Clark. I think he said that said Ferdinand Clark was his brother, and Roxanna M. Clark his sister. His statements in relation to being present at the sale were, according to my recollection, substantially the same as those contained in said paper.

I informed him by letter, on receipt of the letter above-named, that he might leave the paper in my office; but that it could not be put upon the files of the Court, as part of the records of the Court, without the order of the District Judge.

He made at the time that I saw him in my office, I think, some inquiries how such an order could be obtained, &c.

To the third Interrogatory I answer,

After the personal interviews above-named, I think I received from Mr. Isaac P. Clark the letters hereunto annexed, marked C. and D. (copied at p. 423 and 424). I have seen said Clark write, and have no doubt that all the above-named papers, purporting to be signed by Isaac P. Clark, are in his handwriting. And he examined the same, a few days since, in my office, and made copies of the letters B., C. and D., which I certified at his request. He did not deny that they were his handwriting.

To the fourth Interrogatory I answer,

Isaac P. Clark has been frequently in my office within a year, to examine the paper in the case of Ferdinand Clark, and to make copies from them, and he has several times spoken to me of said sale, and Ferdinand Clark's proceedings in bankruptcy, and of the proceedings now pending in the Court in Washington; but I am unable to state said conversations with any fulness or particularity, for the reason that I gave little attention to them at the time.

ALBERT R. HATCH.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

Personally appeared before me, a justice of the peace, within and for said county, at my office in Portsmouth, in said county, on the fifth day of April, A.D. 1852, the above-named Albert R. Hatch, and he then and there being duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories proposed to him as above, gave the foregoing answers, which were reduced to writing by me in his presence, and subscribed by him in my presence.

After said answers had been duly written and subscribed, said deponent again swore that his said answers contained the truth, the whole truth, and nothing but the truth, relative to the matters inquired of in the foregoing interrogatories.

SAM'L STORER,
Justice of the Peace.

Exhibits in Hatch's Deposition.

E'h'bt A.

(Being the Bill of Sale, and acknowledgment thereof, is copied at p. 169), then follows:

ROXBURY, MASSACHUSETTS,
April the 10, 1845.

We hereby certify that the foregoing is a true copy from the

original of John Palmer and of John Kimball, dated April the 9th, 1845, in witness whereof we hereunto affix our hands and seals,
FERDINAND CLARK. [L. S.] ROXANNA M. CLARK. [L. S.]
Witness,
ROXANNA WHITING. [L. S.] MARY F. P. WHITING. [L. S.]

I, Isaac P. Clark, of Boston, Suffolk Co., Massachusetts, do hereby certify, that I this day carefully compared the annexed copy of John Palmer's (assignee of Ferdinand Clark) bill of sale to R. M. Clark, with the original bill of sale, dated Exeter, New Hampshire, April 9th, 1845, and signed by said John Palmer (I being acquainted with said Palmer's signature); and do hereby certify, that it is a true copy from the original. And I do further testify, that I was present at the auction sale of the aforesaid assets of Ferdinand Clark, and saw John Palmer, the assignee of said Clark, sell and sign the aforesaid bill of sale, of which the annexed is a copy, dated April 9, 1845. Given under my hand and seal this twenty-eighth day of May, one thousand eight hundred and fifty-one.

ISAAC P. CLARK. [L. S.]

EXETER, April 2d, 1845.

Mr. ISAAC P. CLARK.

D'r Sir,—I have advertised the assets of Ferdinand Clark to be sold by auction at the Rockingham Farmers' Mutual Fire Insurance Office, on Wednesday, April 9th, at 12 o'clock at noon. I have incurred some additional expense, by taking this course (about $5), including what I shall have to pay the clerk of the Court for license.

I should like to have you or Mr. Ferdinand Clark attend the sale.

Y'rs, &c.,

JOHN PALMER.

I do certify, that the copy above of John Palmer's assignee of Ferdinand Clark's letter to me is a true copy from the original received by me by mail, and I do further testify the said letter is post marked South Hampton, N. H., April 4th. Given under my hand and seal this twenty-eighth day of May, one thousand eight hundred and fifty-one.

ISAAC P. CLARK. [L. S.]

MASSACHUSETTS,
Suffolk, ss.

BOSTON, May 28, 1851.

Then the within-named Isaac P. Clark appears, and made oath that the foregoing certificates by him subscribed are true.

Before me,

JOHN A. BOLLES,
Commissioner of New Hampshire in and for Massachusetts.

Exhibit B.

Exhibit B.

BOSTON, May 28, 1851.

A. R. HATCH, Esq.

Portsmouth, New Hampshire, Clerk of the United States Court, New Hampshire District.

D'R SIR,—Not finding, when last at Portsmouth, a copy of the bill of sale of the assets of Ferdinand Clark in Bankruptcy, No. 1663, made by his assignee, John Palmer, on the court records on his return of the sale, and endorsed to make the records complete, I herewith enclose you a copy, with my affidavit annexed, which please place on file with the other papers in proceedings of Ferdinand Clark, No. 1663, and not to allow it to be taken from your office by any one.

You will please acknowledge receipt of it. Also please state if John Palmer, the assignee of Ferdinand Clark, is still living; and very much oblige,

Your most obdt. servt.,

ISAAC P. CLARK,
113 Washington Street.

P. S. Please send me a copy of Ferdinand Clark's discharge, with the Court seal attached, by return of mail. Enclosed is 25 cents for the same. I. P. C.

1855.

Exhibit C.

Exhibit C.

BOSTON, June 10, 1851.

ALBERT R. HATCH, Esq.,
Clerk of the U. S. Court,
New Hampshire District, Portsmouth, N. H.

D'R SIR,—The object of the present is to inquire of you whether you have been able to file with the proceedings of Mr. Ferdinand Clark in Bankruptcy, Jan'y 28, 1843, the bill of sale of the assets of the said F. Clark, by the late John Palmer, assignee, on the 9th April, 1845. If you have not, will you please adopt the proper course in the premises, so that the bill of sale, aforesaid, may be filed or recorded. Your immediate attention to the above will greatly oblige me, and in case any motion is necessary, and my expenses are incurred, I will pay them, so as to perfect the filing of the said bill of sale. You will please apprise me of any further movements made by the assignee or creditors of said F. Clark, and if any are now made, I will pay you for your trouble. Please reply by return of mail.

Very resp'tfully,
Y'r obdt. serv't,
ISAAC P. CLARK,
113 Washington St.

Exhibit D.

Exhibit D.

BOSTON, June 16, 1851.

ALBERT R. HATCH, Esq.,
Clerk U. S. Court, New Hampshire District,
Exeter, N. H.

D'R SIR,—Yours of 13th, from Portsmouth, is rec'd. You state you will lay my request before Judge Harvey on Tuesday next; not having proper authority to make that request—or interest in the matter—the object of the present is to request you to make no action in the matter to bring it before said Court. Any expense or trouble I have put you to I am ready to pay you, upon notice of it, and remain

Y'r very ob'd't serv't,
ISAAC P. CLARK,
113 Washington St.

Letters between Jas. H. Causten and Ferdinand and Isaac Clark.
Endorsed, "filed by def't by consent—Carlise, for compl't."

WASHINGTON, Sep. 16, 1849.

FERDINAND CLARK, Esq.,
Roxbury.

D. SIR,—On the 23d ulto, I enclosed to you a draft of a memorial relative to your Mexican claim on acc't of schooner Louisiana's cargo, with special request that the same be corrected, executed, and returned to me forthwith, for the reasons therein set forth, and I have repeatedly informed you that your whole papers require to be remodelled before the board can act upon them, and I feel it my duty to again admonish you of the same, since time presses, and I do not mean that your claim be lost through any negligence that I can prevent.

I can hardly suppose that you have abandoned your claim, though your continued silence would lead to such inference. Whatever the facts may be, however, I hope you will so instruct me that I may clearly understand your intention.

I repeat to you, that one of the board, now here, is examining all the claims preparatory to a formal examination of them on 1st Novr. next; that he has requested all the memorials and proof to be filed forthwith, and has asked more than once for you.

With much respect,
Y'r ob'd't serv't,
JAMES H. CAUSTEN.

(Copy.) WASHINGTON, Nov. 4, 1849.

F. N. CLARK, Esq.,
Roxbury.

D. SIR,—In reply to your letter of 1st instant, I can only say, that when you shall have paid me $100 for services rendered in your schooner Louisiana claim, the papers in my possession will be remitted to you, or handed to any agent or other person you may name, if you wish your claim prosecuted by any other person than myself. But if you wish me to pursue it, then I require $100 in hand as retaining fee in your claim, and $50 in hand as retaining fee in Captain Dougherty's claim; you to pay for all new proof (if the case should require such) and for translations, postage, &c., and on the final award in each claim, I am to receive $10 00 for my commissions.

As heretofore advised, the claim must be prepared and prosecuted as two distinct claims, and hence the whole must be remodelled, and it should be done immediately.

Be pleased to consider the above as my definite answer, and that a remittance of said retainers, and assurance that the contingent expenses above mentioned will be paid when required (which will, no doubt, be within a week, or as soon as the translations can be perfected), can alone obtain my attention, since my time is too much occupied to discuss the subject further.

Permit me to add that the benefit of the former board was wholly lost to you by useless delays, against my repeated and earnest remonstrance, and that you are now, by pursuing the like course, putting to hazard the benefit of the present board. I hope I have stated my terms so clearly that your reply will be simply yea or nay.

With much respect,
Y'r ob'd't serv't,
(Signed) JAMES H. CAUSTEN.

(Copy.) ROXBURY, Mass., Nov'r. 1, 1849.

D. SIR,—I have been obliged to delay replying to your letter of the 18th ulto, by reason that I could not make you any further proposition for the agency in the prosecution of the claim for loss of cargo of schooner Louisiana, and as you say your terms are fixed, and cannot depart from them, I cannot accept of them. I will now propose to you what I am authorized by Judges Charles H. Dougherty, son of Captain M. Dougherty, of N. Y. City, owner of the sch'r Louisiana, viz., Extract, N. York, Oct'r 29, 1849, to Fred'k Clarke, "Your views with regard to an agency are correct, and should, in my opinion, be immediately adopted. The terms proposed by your note are, I think, sufficiently liberal, being five or ten per cent. on the amount awarded, as the compensation for services of an agent. It would be as well that you address Mr. Causten on the subject forthwith, and ascertain at once whether he will accept the agency of both your and my father's claims upon your terms, as others can be employed very reasonably. In the mean time I shall prepare a new memorial on the behalf of my father, and send the same to Washington during the present week."

Now and as the memorial and proofs on file are jointly with Captain M. Dougherty and myself, and cannot be separated, and by virtue of his son, Judge Charles H. Dougherty's, above mentioned, authorization, you deem it an object for you to accept the agency on his proposition, you will please write him to that effect, and as to myself I will allow you ten per cent. on the final award of my claim for your agency in the prosecution thereof, and pay my one-half of the expense in procuring proofs and translations that I may require hereafter, through your agency thereof, and of course you must look to Captain M. Dougherty for the other one-half of expenses of said proofs and translations, especially as the documents on file and to be filed, are

owned jointly by him and myself. I have requested Captain M. Dougherty to write you on this subject immediately. My friends in Boston employed you on Spanish claims, for five per cent. on the award.

I am yr. obd't servant,
Signed, F. N. CLARK.

P. S.—I would not have you understand that I you any binding proposition for the agency of Capt. M. Dougherty's claim aforesaid, but leave the matter open for him and his son, Judge Charles H. Dougherty, and you to negotiate yourselves.

Answer.

WASHINGTON, Dec'r 2d, 1849.

ISAAC CLARK, Esqr.
Boston.

D. SIR:—Your very extraordinary letter of 29th ulto., is now before me; to that part of it that relates to the claim against Mexico, on account of the cargo of the schooner Louisiana, I have nothing to add to what is stated in my letter of 4th ulto., addressed to Mr. F. Clark, which you acknowledge to have before you, as I therein state emphatically my definite decision on the subject. I should therefore not have replied to your said letter at all, but for your remarks relative to funds placed in my hands in 1841 for certain purposes, and for which I accounted in 1842, and then paid over the balance to Mr. Clark himself. I cannot imagine his object in reopening this subject by misleading you, as your remarks seem to imply. But whatever his object may have been, I felt it due to myself that you should know the truth of that matter, which after a tedious discussion ended thus.

In my letter to Mr. Clark, of Jan'y 3d, '42, I thus wrote. "The sum of $60 $\frac{28}{100}$ stands to your credit, and you can draw for it at sight or I will place it in New York at your option, on your stating in the draft or in the letter of instruction that it is in full of all accounts."

In his reply of Jan'y 6, '42, he thus wrote. "The $60 $\frac{28}{100}$ please remit to me as you have suggested."

In my letter to him of Jan'y 10, 1842, enclosing a draft of Corcoran & Riggs, on the Bank of America for $60 $\frac{28}{100}$, I say, "Your favor of 6th inst. (Portsmouth 7th), is now before me, and in compliance with your request, that I place $60 $\frac{28}{100}$ in New York, as the balance in my hands to your credit, and in full of all accounts, I have now the pleasure to forward, annexed hereto, Messrs. Corcoran & Riggs' draft on the bank of America, dated this day, at sight, for that sum drawn in my favor and endorsed by me to your order."

And on the 13th Jan'y following, Mr. Clark wrote thus. "I am in receipt of your favor of the 10th inst., together with a check on

the bank of this, say Bank of America, for $60 $\frac{25}{100}$, which I have passed to your credit." And thus that matter terminated definitely. With regard to your proposed terms of the employment of Mr. Webster or other agent, I need only to refer to my said letter to Mr. C. of 4th ult.

I am, yrs. &c.,
JAMES H. CAUSTEN.

WASHINGTON, Dec. 10, '49.

ISAAC CLARK, Esq.,
Boston.

D. SIR.—Your unkind letter of the 5th inst., with its enclosures, is now before me.

I have no desire to prosecute either Mr. F. Clark's claim or Capt. Dougherty's claim, and hence, as heretofore advised, you are at liberty to employ whom you please, and shall have possession of the papers on remitting to me one hundred dollars, already fully earned. As I do not intend to write again on this subject, I take the occasion to warn you of the hazard of further delay, as I have hitherto frequently done. It is expected that the Board will soon adjourn, and your memorials should be filed before that takes place.

I am, respectfully,
Y'r ob'dt serv't,
JAMES H. CAUSTEN.

P. S.—I suppose you are aware of the fact that I sent to Mexico for proof in this case seven months ago, which is now daily expected here.

WASHINGTON, Jan'y 31, 1850.

SIR.—In reply to your letter of the 25th inst. I can only repeat the definite answer, often given heretofore, that when you shall have paid to me $100 for my services rendered in the case referred to, the papers now in my possession will be surrendered to yourself or to any agent you may appoint for the purpose.

JAMES H. CAUSTEN.

Mr. FERDINAND CLARK,
Roxbury.

WASHINGTON, Nov'r 3d, 1850.

ISAAC CLARK, Esq.,
Boston.

SIR.—Your letter of the 1st inst. is now before me, as to which I can only say that it ought not to have been written, and certainly would not have been written if you had known the facts and circum-

stances to which you have improperly referred, and therefore I shall pass by the contents as if not written.

That you have long been in error on the subject of Mr. F. N. Clark's claim for the Louisiana cargo is very evident to me, of which your last remarks are conclusive proof. That you may stand corrected, I enclose herewith a copy of a letter from Mr. Clark himself of 1st Nov'r, '49, and a copy of my reply thereto, from which you will perceive that the representative of Capt. Dougherty and Mr. Clark himself had agreed to my terms for commission, proof, translations, &c., and that the only open question was whether Mr. C. would pay to me a retainer of $100 on account of my prosecuting his claim, or pay that sum for my past services, and take back his papers, to enable some other agent to prosecute it. And altho' he has still the option, I confess I should prefer the latter, seeing the unkind prejudices of him and yourself, which might run through our whole career, and make bitter our whole intercourse, and for such a state of things I have neither taste nor time.

It has occurred to me since writing the above, that as the propriety of his paying the $100 on either account is indisputable, so the reluctance he has manifested to the payment of it arises from inability to do so.

Should such be the fact, and you shall so advise me, I will take instant steps to relieve him on that ground, otherwise both him and yourself have my decision already oft repeated.

I am y'r ob'dt serv't,

JAMES H. CAUSTEN.

WASHINGTON, Nov'r 13, 1850.

Mr. ISAAC CLARK,

Boston.

SIR.—I learn by your letter of 9th inst., received this morning, that you acknowledge to have seen Mr. F. N. Clark's letter to me, of which I enclosed to you a copy in my letter of the 4th inst., that acknowledgment would of itself lead me to decline any further correspondence with you on the subject.

And the gross injustice done me by threats and other disregarded remarks would naturally lead me from a correspondence of any kind with persons capable of such conduct.

The poverty in which you state Mr. F. N. Clark to be closes my lips as to compensation for past services, and I hereby exonerate him from the same.

Although both him and yourself, and the others concerned in the joint claim have treated me with marked disrespect, I have not hesitated to pursue their interest with great earnestness; the detail thereof they are wholly ignorant of, as I believe. But as I am now decided to close the matter (on the grounds of F. N. Clark's poverty),

so far as concerns myself, I think it proper to inform you, that in May of last year I made requisition on the Mexican Government, through the Board and our Secretary of State, for proof in this case; and since then I made a requisition on the Dep't of State for all proof on the files of the Consular Bureau, and also on said Dep't for instruction to our Minister to send hither all the papers or claims in his legation, and to direct the different Consuls of the U. S. in Mexican ports to forward through him, or direct to said department, all the proof on their files; also a private requisition on our Consul in Mexico—also on our Minister in Mexico, and recently through Mr. Webster, Secretary of State, a still further requisition on Mexico, and on our Minister there. To all these, few answers and few papers have been received, and in consequence thereof, unavoidable delay (but not of the least importance), has resulted up to this time, and a further delay for said called proof must of necessity still be yielded to. And in conclusion to this matter, and to all correspondence in relation to it, I now advise you, that I shall on to-morrow place in the Department of State all the papers now in my hands having relation to the Schr. Louisiana and cargo, of which yourself and all concerned will please take notice.

Y'r ob't s'vt,
JAS. H. CAUSTEN.

P. S. I desire here to state, that the first knowledge of the claim was discovered by me, and communicated to Mr. Clark about 9 years ago, and since then an endless correspondence from himself and friends has been forced on me, and that I never received one cent for any services in this case of nine years' prosecution.

WASHINGTON, Nov. 14, 1850.

SIR,—I wrote you on yesterday, which I now confirm; and according to the assurance therein given, that I would this day file the papers in the Dep't of State, which I received from Mr. Ferdinand Clark in Feb'y, 1842, I think proper to apprise you that that has been done, accompanied with a letter to the Secretary of State, of which I now enclose a copy herewith, for your information and government.

I am, most respectfully,
JAMES H. CAUSTEN.

To MR. ISAAC CLARK, Boston.

UNITED STATES OF AMERICA,
District of Columbia, ss.

Circuit Ct., Mar. T. 1852.

B. C. CLARK et al. *vs.* FERDINAND CLARK.

Interrogatories to M. F. P. Field and R. C. Whiting.

Interrogatories to be proposed to Mary F. P. Field, of Dedham, and Roxanna C. Whiting, of Roxbury, both said towns in the County of Norfolk and Commonwealth of Massachusetts, witnesses to be examined on the part of the defendant in the above entitled suit.

1st. What is your name, age, and place of residence?

2d. State whether either of the witnesses, and which of them, upon the paper hereto annexed, marked A, is your own?

3d. State whether said paper was executed in your presence, and whether the name of Miss Roxanna M. Clark was written by you?

4th. State whether you have changed your name since signing said paper, and if so, how?

R. CHOATE, *for D'ft.*

UNITED STATES OF AMERICA,
District of Columbia.

U. S. Circuit Court, Mar. T. 1852.

B. C. CLARK et al. *vs.* FERDINAND CLARK.

Cross-interrogatories to same.

Cross-interrogatories to be proposed to Mary F. P. Field, of Dedham, and Roxanna C. Whiting, of Roxbury, witnesses to be produced on the part of the d'ft in the above cause.

First. Did you see the paper annexed to said direct interrogatories within? If yea, who wrote it? If not, do you know the hand, and whose is it?

Second. Declare whether the said Ferdinand Clark was present when you signed said paper. Did you see the same delivered to him? If yea, when, where, and by whom? If not, to whom was it delivered that you saw?

Third. At whose house in Roxbury was said paper signed? How came you to be there at the time? What relationship is there between Miss R. M. Clark and Ferdinand Clark.

Fourth. Was Isaac P. Clark, the nephew of F. Clark, present when the said paper was signed? Did he live in the house in which it was signed or witnessed? If yea, do you know whether he had previously been absent from home, and for how long, and when did he return?

Fifth. Did you see any money paid by the d'ft, or Isaac P. Clark, or any other person at the time said paper was signed by Miss Clark, or when it was delivered? If so, how much, and who paid it, and to whom?

Sixth.—Who else was present besides yourself at the time of the making, or of the signing or of the delivery of said paper? State all the persons present at the time of either of those transactions.

Seventh.—Are you in any way related to said Ferdinand Clark? If yea, state how.

Eighth.—Was any consideration, and if any, what, made or promised to you by any person, and whom, at the time of your witnessing the paper? What, if anything, were you to receive for so doing?

C. G. RIPLEY, *for Pl'ff.*

Answers to Interrogatories.

Answers to said Interrogatories by Mary F. P. Field.

Answer to the 1st Interrogatory.

My name is Mary F. P. Field; my age is twenty-five years; my residence is Dedham, Massachusetts.

Answer to 2d Interrogatory.

The signature "Mary F. P. Whiting," on said paper, is mine.

Answer to 3d Interrogatory.

Said paper was executed in my presence, and said name of Roxanna M. Clark was written by her.

Answer to 4th Interrogatory.

I have changed my name by marriage.

Answer to 1st Cross-interrogatory.

I saw said paper written; it was written by Mr. Ferdinand Clark.

Answer to 2d Cross-interrogatory.

Said Clark was present; I must have seen it delivered to him; I do not remember the time; the place was my mother's house, in Roxbury; I do not remember by whom it was delivered.

Answer to 3d Cross-interrogatory.

It was signed at my mother's house; it was my home at that time; said parties are brother and sister.

Answer to 4th Cross-interrogatory.

Said Isaac P. Clark was not present when said paper was signed or witnessed; I do not know anything as to his absence from home or his return; he did not live in said house.

Answer to 5th Cross-interrogatory.

I saw no money paid.

Answer to 6th Cross-interrogatory.

I do not remember.

Answer to 7th Cross-interrogatory.
He is my uncle.
Answer to 8th Cross-interrogatory.
Nothing was promised, nor has anything been received.

MARY F. P. FIELD.

COMMONWEALTH OF MASSACHUSETTS,
Norfolk ss., Mar. 8, 1852.

Personally appeared, the above named Mary F. P. Field, and being first duly sworn to make true answers, and to testify the truth, the whole truth, and nothing but the truth, made the foregoing answers to the above interrogatories and cross-interrogatories.

FRANCIS HILLIARD,
Justice of the Peace.

Answers of Roxanna C. Whiting.

Answer to 1st Interrogatory.
My name is Roxanna C. Whiting; my age is 35 years; my residence is Roxbury.
Answer to 2d Interrogatory.
The 2d signature is mine.
Answer to 3d Interrogatory.
It was executed in my presence; said name was written by her.
Answer to 4th interrogatory.
I have not changed my name.

Answers to Cross-interrogatories.

Answer to 1st Cross-interrogatory.
I do not remember seeing it written; the handwriting is Mr. Ferdinand Clark's.
Answer to 2d Cross-interrogatory.
He was present; I saw it delivered to him; I do not remember when or by whom; it was at my mother's house at Roxbury.
Answer to 3d Cross-interrogatory.
At my mother's house; this was my home; they are brother and sister.
Answer to 4th Cross-interrogatory.
He was not present; he did not live in said house; I do not know of his being absent.
Answer to 5th Cross-interrogatory.
I saw no money paid.
Answer to 6th Cross-interrogatory.
I do not remember.

Answer to 7th Cross-interrogatory.
I am his niece.
Answer to 8th Cross-interrogatory.
No consideration was paid or promised me.

ROXANNA C. WHITING.

COMMONWEALTH OF MASSACHUSETTS,
Norfolk, ss., Mar. 18, 1852.

Then personally appeared, the above named Roxanna C. Whiting, and being duly sworn to testify the truth, the whole truth, and nothing but the truth, made the foregoing answers to the above interrogatories and cross-interrogatories.

FRANCIS HILLIARD,
Justice of the Peace.

Paper annexed to preceding Interrogatories.

ROXBURY, Norfolk County, Massachusetts,
April 10, 1845.

B. Sale. R. M. C. to F. C.

I, the undersigned, Miss Roxanna M. Clark, of Boston, Suffolk County, Massachusetts, do hereby convey, transfer and make over to Mr. Ferdinand Clark, for his use and benefit, to him, and his heirs, executors, administrators, and assigns, all my right and title to certain effects, claims, demands, &c., included in schedule A. or B. attached to the bill of sale of John Palmer, Esquire, of Exeter, Rockingham County, New Hampshire, dated April 9, 1845, being the former property of the said Ferdinand Clark, surrendered by him up to his creditors in bankruptcy, January the 28th, 1843, as appears by his proceedings in the United States Bankrupt Court, New Hampshire District; and I, the said Roxanna M. Clark, do acknowledge to have received from the said Ferdinand Clark, a good and valuable consideration for the said demands, effects, claims, &c., included in the schedule A. or B. attached to the bill of sale, of the same as made to me by the said John Palmer, on the 9th day of April, one thousand eight hundred and forty-five, and the said Roxanna M. Clark, having sold, granted, bargained and and conveyed, unto the said Ferdinand Clark, of Exeter, New Hampshire, all her right and title to him and his heirs, executors, administrators, and assigns, to the said effects, demands, claims, &c., for his and his heirs, executors, administrators and assigns, sole use and benefit, for a good and valuable consideration.

In witness whereof, I have hereunto set my hand and seal, this tenth day of April, 1845.

ROXANNA M. CLARK.

Witnesses,
MARY F. P. WHITING,
ROXANNA C. WHITING.

Certificate of Administrator of C. Palmer.

STATE OF NEW HAMPSHIRE,
Rockingham, ss.

The subscriber, register of probate for said County, hereby certifies and attests, that on the thirteenth day of January, in the year of our Lord 1847, at a probat Court, then holden at Exeter, in said County, by the Hon. John Sullivan, then Judge of said Court, Catherine T. Palmer, of said Exeter, widow, was duly appointed administratrix of the estate of John Palmer, late of Exeter, deceased, and the said Catharine T. Palmer accepted of said trust, and gave bond for the faithful performance thereof, agreeably to the laws of said State. And I further certify, that said appointment has never been revoked, but remains in full force as by the records of said Court appears.

[SEAL.] Given under my hand, and the seal of said Court, at the probate office in Exeter, in the said County of Rockingham, this 17th day of May, A.D. 1851.

I. HAMILTON SHAPLEY, *Register.*

DISTRICT OF COLUMBIA,
Washington County—to wit:

I, John A. Smith, Clerk of the Circuit Court of the District of Columbia, for the County of Washington, hereby certify, that the aforegoing is a full, true, and perfect transcript of the bills, petitions, answers, depositions, letters, and all proceedings had by the said Court, in the said cause of B. C. Clark and Wm. H. Y. Hackett and others, complainants, and Ferdinand Clark, defendant, with a copy of the appeal bond annexed.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said Court, this twenty-second day of August, A.D. 1853.

JNO. A. SMITH, *Clk.*

1091.

SUPREME COURT OF THE UNITED STATES.

No. 32.

DECEMBER TERM, 1854.

FERDINAND CLARK, APPELLANT,

vs.

B. C. CLARK, HACKETT AND AL., APPELLEES.

Amendment of the record.

It is agreed that the following corrections and additions to the record in this case shall be made, and shall stand as if there had been a suggestion of diminution duly made, and the said corrections and additions had been returned on certiorari for that purpose.

1. The date of the jurat to Hackett's bill (p. 26) is the 30th May, 1851; and the same was filed on the 2d June, 1851.

2. The amount awarded to the appellant, by the name of Ferdinand N. Clark, was for the same claim—for the seizure by Mexico of the schooner Louisiana's cargo—which is referred to in his correspondence with T. H. Causten, set forth in the record; and the amount awarded was $86,786 29, but the sum remaining is $69,429 04; the difference between these two sums having been paid under an interlocutory order, upon the report of the auditor and by consent of parties, to the agents who prosecuted the said claim, under an agreement with the appellant for twenty per cent. contingent fees; which said agents became parties to this suit on petition.

A. H. LAWRENCE,
For appellant.

CARLISLE,
For appellees.